

BOARD FOR JUDICIAL ADMINISTRATION



**WASHINGTON
COURTS**

MEETING PACKET

**FRIDAY, JULY 18, 2008
9:30 A.M.**

**AOC SEATAC OFFICE
SEATAC OFFICE CENTER
18000 INTERNATIONAL BOULEVARD, SUITE 1106
SEATAC, WASHINGTON**

Board for Judicial Administration Membership

VOTING MEMBERS:

Chief Justice Gerry Alexander, Chair
Supreme Court

Judge Vickie Churchill, Member-Chair
Superior Court Judges' Association
Island County Superior Court

Judge Marlin J. Appelwick
Court of Appeals, Division I

Judge Rebecca M. Baker
Superior Court Judges' Association
Ferry/Stevens/Pend Oreille Superior Courts

Judge Ronald Culpepper
Superior Court Judges' Association
Pierce County Superior Court

Judge Sara Derr
District and Municipal Court Judges'
Association
Spokane County District Court

Judge Susan Dubuisson
District and Municipal Court Judges'
Association
Thurston County District Court

Judge Deborah Fleck
Superior Court Judges' Association
King County Superior Court

Judge Michael Lambo
District and Municipal Court Judges'
Association
Kirkland Municipal Court

Judge Marilyn Paja, President
District and Municipal Court Judges'
Association
Kitsap County District Court

Justice Barbara Madsen
Supreme Court

Judge Richard McDermott, President,
Superior Court Judges' Association
King County Superior Court

Judge Robert McSeveney
District and Municipal Court Judges'
Association
Kent Municipal Court

Judge Christine J. Quinn-Brintnall
Court of Appeals, Division II

Judge John Schultheis
Court of Appeals, Division III

NON-VOTING MEMBERS:

Mr. Stanley A. Bastian, President
Washington State Bar Association

Judge C.C. Bridgewater, Presiding Chief
Judge
Court of Appeals, Division II

Judge Tari Eitzen, President-Elect
Superior Court Judges' Association
Spokane County Superior Court

Mr. Jeff Hall
Interim State Court Administrator

Mr. Mark Johnson, President-Elect,
Washington State Bar Association

Ms. Paula Littlewood, Executive Director
Washington State Bar Association

Judge Glenn Phillips, President-Elect
District and Municipal Court Judges'
Association
Kent Municipal Court

Board for Judicial Administration

July 18, 2008

9:30 a.m.

AOC SeaTac Office

Suite 1106, SeaTac Office Center

Agenda

1. Call to Order	Chief Justice Gerry Alexander Judge Vickie Churchill	
2. Welcome and Introductions Representatives of the Washington State Association of County Clerks Other Guests	Chief Justice Gerry Alexander Judge Vickie Churchill	
Action Items		
3. June 20, 2008 Meeting Minutes Action: Motion to approve the minutes of the June 20, 2008 meeting	Chief Justice Gerry Alexander Judge Vickie Churchill	Tab 1
4. Trial Court Operations Funding Committee Report Action: Motion to approve the recommendations from the Trial Court Operations Funding Committee	Mr. Dirk Marler	Tab 2
5. Revision to General Rule 29 (k) Judicial Services Contracts Action: Motion to recommend to the Supreme Court the revision to General Rule 29 (k) Judicial Services Contracts	Judge Marilyn Paja	Tab 3
6. BJA Long-Range Plan Action: Motion to approve the BJA Long-Range Plan	Judge Vickie Churchill	Tab 4
Reports and Information		
7. Report from the Washington State Association of County Clerks WSACC Legislative Plans for 2009 Proposed GR 34/Waiver of Fees ELC 7.1(b)	Ms. Betty Gould Ms. Barb Miner Ms. Barb Miner	Tab 5
8. Council of State Governments Inter-branch Summit	Ms. Mellani McAleenan	Tab 6
9. Court Tours for Legislators	Ms. Mellani McAleenan	Tab 7
10. Washington State Bar Association	Mr. Stan Bastian	

11. Reports from the Courts Supreme Court Court of Appeals Superior Courts Courts of Limited Jurisdiction	Justice Barbara Madsen Judge C. C. Bridgewater Judge Richard McDermott Judge Marilyn Paja	
12. Other Business Next meeting: September 19 Beginning at 9:30 a.m. at the AOC SeaTac Office, SeaTac	Chief Justice Gerry Alexander Judge Vickie Churchill	

Board for Judicial Administration
June 20, 2008
AOC SeaTac Office
SeaTac, Washington

Members Present: Chief Justice Gerry Alexander, Chair; Judge Vickie Churchill, Member-Chair; Judge Marlin Appelwick; Judge Rebecca Baker; Judge C.C. Bridgewater; Judge Ronald Culpepper; Judge Sara Derr; Judge Susan Dubuison; Judge Tari Eitzen; Judge Deborah Fleck; Mr. Jeff Hall; Judge Michael Lambo; Ms. Paula Littlewood; Judge Robert McSeveney; Judge Marilyn Paja; Judge Glenn Phillips; and Judge Christine Quinn-Brintnall.

Guests Present: Mr. Wayne Blair, Ms. Roni Booth, Judge Harold Clarke III, Ms. Kathy Martin, Ms. Marti Maxwell, Justice Susan Owens, and Judge Kevin Ringus.

Staff Present: Ms. Ashley DeMoss, Ms. Beth Flynn, Dr. Tom George, Ms. Katrin Johnson, Mr. Dirk Marler, and Mr. Chris Ruhl.

The meeting was called to order by Chief Justice Alexander. Chief Justice Alexander introduced and welcomed the new BJA members: Judge Ronald Culpepper, Judge Michael Lambo, Judge Tari Eitzen, and Judge Glenn Phillips.

May 16, 2008 Meeting Minutes

It was moved by Judge Appelwick and seconded by Judge Derr to approve the May 16, 2008 BJA meeting minutes with the following correction: correct the spelling of the word “principals” on the bottom of the first page. The motion carried.

Change/Clarification to the Interpreter Services Funding Conditions

Mr. Ruhl reported that some small revisions to the interpreter funding conditions are being proposed that require the approval of the BJA.

- One substantive change being proposed is in response to some confusion that occurred with a few trial courts regarding how much they should pay contract interpreters who are paid by the hour. The Interpreter Commission wants to ensure that all interpreters who are being paid by the hour (including contract interpreters) are being paid the equivalent of \$50/hour.
- Another substantive change is the provision to limit travel reimbursement to a reasonable amount. One court on the Olympic Peninsula was paying for a certified Spanish court interpreter to travel from Pasco, despite the fact that there are ample certified Spanish court interpreters available in the Puget Sound area.

- Washington currently certifies court interpreters in nine languages: Arabic (Levantine and Egyptian), Cantonese, Korean, Laotian, Mandarin, Russian, Somali, Spanish, and Vietnamese. However, three of the languages do not currently have any certified interpreters (Arabic, Mandarin and Somali). Similarly, there are a number of registered languages in which no registered interpreters are yet available. A provision was included in the original Funding Conditions allowing courts to be reimbursed for interpreters qualified from the bench in languages where no Washington certified or registered interpreters exist, through December 31, 2008. An additional year is needed (until December 31, 2009) to try to get more interpreters certified and registered in these needed languages.

Judge Fleck asked if there has been any increase in certified and registered interpreters as a result of the increased interpreter services funding. Mr. Ruhl explained that they are currently in a testing cycle. Ms. Johnson stated that written exam applicants are up from 150 last year to 209 this year. They did have candidates pass the written exam in Arabic, Mandarin and Somali so it is possible they will soon have certified interpreters in those languages if they pass the oral exam. Next year, the Interpreter Program will implement a more robust training program for applicants, including Spanish training in Central Washington.

It was moved by Judge Paja and seconded by Judge Fleck to approve the revised Washington State Interpreter Services Funding Conditions/Payment Structure. The motion carried.

Interpreter Commission Report

Justice Owens reported on the following Interpreter Commission activities.

Planning Retreat: Last summer, the Commission held a two-day planning retreat in Wenatchee. During the retreat, the Commission members set long-term goals of service improvements and determined strategic priority projects for increasing service capacity over the next two years.

Interpreter Staff: The Commission received a grant from the State Justice Institute to hire a consultant to work with courts regarding interpreter issues. A full-time AOC staff person was also hired to help local courts create and implement language assistance plans (LAPs); and there are currently ten collaboration sites (representing 56 different courts) receiving funding for interpreter services reimbursement. Part of the funding requirement is that courts will provide interpreter data to AOC which can be used in the future to better plan for interpreter and funding needs.

Reciprocity: The Interpreter Commission recently approved a change giving reciprocity to Oregon and federal interpreter certification, and is currently considering a broader general policy regarding reciprocity with other member states of the Consortium for State Court Interpreter Certification.

Forms Translation: The Commission is working in collaboration with Access to Justice representatives on forms translation. The Commission has identified which languages are needed (Spanish, Russian, Vietnamese, Chinese and Korean) and should have all statutory forms translated in those languages and available on the Washington Courts Web site by late July.

Interpreting Bench Cards: The Commission mailed laminated bench cards regarding courtroom interpreting to all Washington State judges to assist judges with interpreting issues. Judge Churchill suggested e-mailing the information to all the judges so they will have the information electronically.

Trial Court Operations Funding Committee Report

Judge Clarke reported that there are nine members on the Trial Court Operations Funding Committee and they have been working on funding proposals regarding jury funding, state funding of district and municipal court judge salaries, and state funding of interpreters. The Committee met in person three times and the rest of their meetings have been by conference call. Judge Clarke reviewed each of the Committee's funding proposals with the BJA.

State Funding of Interpreters: For this proposal, a decision package was created by the Committee. The package goes forward from pilot funding to a fully-funded proposal using a reimbursement model in which the court is paid back for reimbursable expenses.

State Funding of District and Municipal Court Judge Salaries: The Committee proposed legislation for this request because they are asking the Legislature to put state funding into play regarding funding of district and municipal court judge salaries. In order to get to the 50% mark, they set out a stair step approach of a 10% per year increase in state funding. The proposed legislative language indicates this funding is in addition to Trial Court Improvement Account funds so it is clear they are separate.

Increased State Funding of Jury Expenses: This proposal includes draft legislation that requests state funding to begin on the second day of service for daily juror pay and on day one for mileage reimbursement. This is also a reimbursement model requiring courts to submit their requests for reimbursement at least quarterly.

Judge Appelwick asked if the Committee rejected the idea of reimbursing jurors for their actual hours of service. He stated that he doesn't know if the statute is explicit that jurors are not employees. If not already disposed of in statute, he suggested clarifying that jurors are not subject to employment laws.

Mr. Hall explained that the Committee's recommended minimum wage standard represents a change from the previous recommendation of \$60 a day for jury service.

Judge Churchill mentioned that the advantage of tying the reimbursement amount to the current minimum hourly wage is that 50 years from today the BJA will not be looking at this again because there is a built-in escalator.

Judge McSeveney stated that the funding piece is great but he has a concern regarding inefficiencies based on how each court sets up its jury system. Frequently, jurors are called into court and then sit because of lack of preparation by attorneys. Those jurors will need to be paid. Judge Clarke stated that the Committee did consider best practices when creating their proposals. That particular issue was a discussion piece that was intentionally left for other groups to consider.

Judge Churchill suggests the wording of "at least quarterly" in section (2) on page 1, should read "at least on a quarterly basis." Judge Clarke indicated that as a Committee they will review the proposals because there is still some clean-up to do.

Chief Justice Alexander stated that the Supreme Court plans to include the interpreter funding in their budget proposal and the other two pieces are policy issues which will be submitted to the Legislature for action.

This item will be on the BJA agenda next month for action.

Revision to General Rule 29(k) Judicial Services Contracts

Judge Paja stated that the District and Municipal Court Judges' Association established an ad hoc committee to review General Rule 29(k) and decide if revisions were needed.

Judge Ringus reported that the ad hoc committee regarding GR 29(k) was established because of Judge McSeveney's question as to the need for GR 29(k). Judge Ringus expressed his appreciation for Judge McSeveney's question because during his time on the bench, he has had five different mayors/city managers. As a judge, he was asked by some of the mayors/city managers to sign letters of agreement and each letter became more complex than the previous letter. He realized that if he wanted to receive the same benefits as other city

managers, he needed to have a contract. The contracts stated he needed to comply with the city's procedures and he had to push in order to receive benefits. That is the reason the ad hoc committee decided to limit this rule change to salary and benefits. The rule change does appear to be necessary and until an RCW is created outlining how judges are paid at every level, there will be arguments about judicial benefits in cities around the state every four years.

Judge Paja added that the rule change makes it clear that judges are not employees and contracts should cover salary and benefits only.

[Note: After the formal meeting, Judge Quinn-Brintnall suggested that the revision to GR 29(k) at the first sentence provide: "A *part-time* judicial officer..." The DMCJA members consulted had no objection.]

This item will be placed on the action calendar of the July BJA agenda.

Court Budget Reporting Group Report

Ms. Booth gave an update on the Court Budget Reporting Group. The group is comprised of Ms. Booth, Ms. Telma Hauth, Mr. Paul Sherfey, Judge Gordon Godfrey, Judge David Svaren and Mr. Ramsey Radwan. The group met twice prior to the appointment of the two judges and their next meeting, in July, will be the first meeting of the full group.

The focus of the group is budgeting for interpreters, marriage dissolution, jurors and juror management. They expect to report back to the BJA regarding their budgeting plan in early fall.

Courthouse Facilitator Summary

Dr. George, from the Washington State Center for Court Research, presented information regarding a study that was conducted at the Center regarding self-represented litigants in family law matters. The summary report was included in the meeting materials and the link to the full report is <http://www.courts.wa.gov/wscrr/?fa=ccr.publications>.

Washington's courthouse facilitators began serving the public in 1993 in seven pilot sites and they currently operate in 35 counties. The last time the program was evaluated was in 1993.

The Center surveyed facilitators and gathered basic general program information; collected visit data from facilitators and customers in Kitsap, Lewis, Thurston, and Yakima counties; surveyed judicial officers and program administrators; and surveyed family law litigants (unassisted, facilitator-assisted, attorney-represented). The Center also analyzed family law case processing information

from the Judicial Information System during the review process. The survey resulted in the following information being obtained:

- There are approximately 57,000 individual sessions annually.
- The average length of the appointments are 30-60 minutes.
- Reasons for meeting with the courthouse facilitator varied. 60% of the litigants stated they couldn't afford an attorney, 29% didn't feel the case was that complicated, and 18% were unsure if an attorney was necessary. The reasons varied by income level.
- Regarding customer satisfaction, the following percentage of respondents agreed with the statements listed below:
 - Meeting was helpful: 98%
 - I know what I need to do next: 98%
 - More prepared for court appearance: 91%
 - Understood instructions given: 94%
 - Treated with respect: 98%
 - Meeting was worth the cost: 94%
 - More trust and confidence in the courts: 82%
 - I know where to go to get legal advice: 91%
- 97% of judicial officers and administrator surveyed reported a positive impact from the program.

Results of the litigants' court experiences survey indicated that facilitator-assisted litigants reported more positive court experiences, had a greater sense that justice was served, and had more trust and confidence in the courts in comparison to unassisted litigants.

Some of the issues and concerns that were uncovered during the survey were funding, legal advice questions, and training.

BJA Trial Court Coordination Grants Report

Mr. Hall reported on the Trial Court Coordination Committee which is chaired by Judge Stephen Holman. The Committee provided a written report outlining five recommendations which will receive funding for improvements in trial courts: Black Diamond, Bonney Lake, and Buckley municipal courts: in-custody hearings (\$14,000); King: jury summons response (\$28,172); Pierce: volunteer coordination (\$15,000); Skagit: regional staff training (\$6,715); and Columbia: in-custody hearings (\$11,000).

BJA Long-Range Plan

Judge Churchill reported that the BJA Long-Range Planning Committee is trying to take a long-term, proactive approach to revising the BJA Long-Range Plan. In order to do this properly, they will need more assistance from AOC.

The revised plan was distributed in the materials with all the revisions marked. Some of the highlights are:

- There are some revisions to the objectives of Goal 1.3 – The Board for Judicial Administration will Foster and Develop Leadership Within the Judicial Branch (page 5 of the Plan). The Committee made the revisions in response to the need to develop leadership skills for future leaders in the judicial associations and BJA.
- Added a new task under Goal 4.3 – Secure Adequate, Stable and Long Term Funding for the Washington Courts (page 13) to show how state legislation impacts court workload.

Mr. Hall clarified that this plan was developed for the BJA, not the judiciary. The plan will be voted on at the next BJA meeting.

Additional Judge for Division II

Judge Bridgewater reported that the Court of Appeals is in need of a new Division II judge because of an increase in caseload. He noted that the letter regarding the additional judge distributed with the meeting materials is revised as follows: strike out "This issue has been presented to JIJC and was accepted without objection." The Justice In Jeopardy Implementation Committee does not accept nor approve additional judge requests but the request was presented as information to the Committee.

The decision to request another judge in Division II has been vetted for a year. In an ideal situation, 70 cases is an appropriate number for a judge per year. A judge could handle 80 cases a year, but not over a sustained period of time. Currently, Division II judges have in excess of 114 cases per year. The workload more than justifies another judge.

There is also an internal desire to have a timeline of two months between the filing of a case and the completion of the last brief. Now, Division II is looking at a seven month delay which is just not acceptable.

The BJA is being asked to approve and go forward with this judge request in legislation.

It was moved by Judge Culpepper and seconded by Judge Paja that the BJA support the Court of Appeals, Division II request for an additional judge in the 2009 session of the Legislature through BJA request legislation. The motion carried.

Access to Justice (ATJ) Board

Mr. Blair reported that the ATJ Conference was held in Vancouver, Washington two weekends ago. There were 345 registrants which is the most they ever received for an annual conference. The conference was well-attended and a success.

Washington State Bar Association (WSBA)

Ms. Littlewood stated that the WSBA Board of Governors (BOG) met the day prior to the ATJ/Bar Leaders Conference. Mr. Salvador Mungia, from Tacoma, will be President-Elect for 2008-2009 and Mr. Anthony Gipe was elected Governor-At-Large with his term commencing in September 2008. Other new Governors whose terms will commence in September 2008 are: Mr. Loren Etengoff, Mr. Patrick Palace, Ms. Catherine Moore, and Mr. Brian Comstock.

The Judicial Selection Task Force recommendations (both majority and minority reports) were heard by the Board at the June meeting. By a vote of 10-3, the BOG adopted the minority report to keep the judicial election system as it is.

The Bar Leaders Conference was held in conjunction with the ATJ Conference. During the conference, Mr. Blair received the first-ever WSBA/ATJ Board Norm Maleng Leadership Award which was established to recognize those who embody the statesman-like qualities that characterized Norm Maleng's leadership.

This year, during the BOG retreat, they will conduct a comprehensive review of the WSBA bylaws. They will also look at their budget during the July meeting and begin discussion of the license fee amounts for FY10 and FY11. The WSBA is currently looking at a deficit for its FY09 budget; however, this shortfall was anticipated given the increase in rent and growing costs for staff salaries and benefits. In addition, license fee increases for the last nine years were only 2%, so the increases were not keeping up with inflation. The WSBA is currently reviewing all programming to find ways to reduce expenses and upcoming issues of the *Bar News* will discuss the current budget situation in an effort to educate the membership about these issues.

Reports from the Courts

Supreme Court: Chief Justice Alexander reported that the Supreme Court is wrapping up the spring term and after that, the Court will not be hearing cases until

September. They are making a big effort to reduce the time it takes to process petitions for review. Their goal is three months. They have already knocked off about two months of the time it takes and hopefully, early in the fall, they will reduce the time even more.

Three Supreme Court justices are up for election: Justice Mary Fairhurst, Justice Charles Johnson, and Justice Debra Stephens. Justices Fairhurst and Johnson have opponents and Justice Stephens' opponent withdrew from the race.

The Supreme Court travels to hear oral arguments three times a year (once each term to another locale). They will be at Washington State University in early September and they are looking forward to their visit.

Court of Appeals: Judge Bridgewater stated that the new Court of Appeals Chief Judges are: Judge Ann Schindler, Division I; Judge Marywave Van Deren, Division II, and Judge John Schultheis, Division III.

Superior Courts: Judge Eitzen reported that the SCJA held their Long-range Planning and Board meetings in Chelan and are fine-tuning their five-year plan.

Courts of Limited Jurisdiction: Judge Paja shared that the DMCJA held their elections in early June. She is still working on some of the association's committee appointments. Judge Paja spoke to the Association of Washington Cities about how local government can speak to their courts regarding issues. In recognition of some of the leadership and succession planning issues, not just in the judiciary but also with court clerks and administrators, the DMCJA included funding for scholarships in their budget for clerks and administrators to take some leadership training.

Other Business

August Meeting: Mr. Hall reported that, at this time, there is not a need to hold the August meeting. It is normally canceled if there is no anticipated business for the agenda. The BJA sets the meeting dates and needs to approve the cancelation of the August meeting if that is something the BJA members would like to do.

It was moved by Judge Quinn-Brintnall and seconded by Judge Paja that there not be an August 2008 BJA meeting. The motion carried.

There being no further business, the meeting was adjourned.

Jury Pay Legislative Proposal

Based on Current Washington State Minimum Wage and With CPI Inflation Escalator

RCW 2.36.150 Juror compensation and expense payments — Reimbursement by state — ~~Pilot projects.~~

(1) Grand, petit, coroner's, and district court Jurors shall receive for each day's attendance, besides mileage at the rate determined under RCW 43.03.060, ~~the following expense payments: (a) up to sixty-five dollars but in no case less than ten dollars for the first day of attendance and (b) sixty-five dollars for each day thereafter.~~

~~(1) Grand jurors may receive up to twenty-five dollars but in no case less than ten dollars;~~

~~(2) Petit jurors may receive up to twenty-five dollars but in no case less than ten dollars;~~

~~— (3) Coroner's jurors may receive up to twenty-five dollars but in no case less than ten dollars;~~

~~— (4) District court jurors may receive up to twenty-five dollars but in no case less than ten dollars;~~

(2) The county is solely responsible for juror compensation for the first day of attendance. The state shall reimburse the county quarterly for any additional juror compensation required under this section and for mileage beginning the first day of attendance. The county shall use forms prescribed by the administrative office of the courts to request reimbursement. The compensation paid to jurors for the first day of attendance shall be determined by the county legislative authority and shall be uniformly applied within the county.

(3) The administrative office of the courts shall annually adjust the maximum amount for the first day of attendance and the amount for subsequent days attendance for inflation beginning on July 1, 2010 based on changes in the consumer price index during the previous calendar year. "Consumer price index" means, for any calendar year, that year's annual average consumer price index for urban wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor.

(4) ~~PROVIDED, That a~~ A person excused from jury service at his or her own request shall be allowed not more than a per diem and such mileage, if any, as to the court shall seem just and equitable under all circumstances.

(5) ~~PROVIDED FURTHER, That t~~The state shall fully reimburse the county in which trial is held for all jury fees and witness fees related to criminal cases which result from incidents occurring within an adult or juvenile correctional institution.

1 : ~~PROVIDED FURTHER, That the expense payments compensation paid to jurors for~~
2 ~~the first day of attendance shall be determined by the county legislative authority and~~
3 ~~shall be uniformly applied within the county.~~
4

5 For the fiscal year ending June 30, 2007, jurors participating in pilot projects in
6 superior, district, and municipal courts may receive juror fees of up to sixty two dollars
7 for each day of attendance in addition to mileage reimbursement at the rate determined
8 under RCW 43.03.060.
9

10
11 **RCW 3.50.135 Request for jury trial in civil cases — Exception — Fee — Juror**
12 **compensation and expense payments — Jury trials in criminal cases.**
13

14 (1) In all civil cases, the plaintiff or defendant may demand a jury, which shall consist
15 of six citizens of the state who shall be impaneled and sworn as in cases before district
16 courts, or the trial may be by a judge of the municipal court: PROVIDED, That no jury
17 trial may be held on a proceeding involving a traffic infraction.
18

19 (2) A party requesting a jury shall pay to the court a fee which shall be the same as
20 that for a jury in district court. If more than one party requests a jury, only one jury fee
21 shall be collected by the court. The fee shall be apportioned among the requesting
22 parties.
23

24 (3) Each juror may shall receive: (a) up to ~~twentysixty-five~~ dollars, but in no case less
25 than ten dollars for each the first day in attendance upon the municipal court; and (b)
26 sixty-five dollars for each day thereafter; and in addition thereto shall receive mileage at
27 the rate determined under RCW 43.03.060.:
28

29 (4) ~~PROVIDED, That~~ The city is solely responsible for juror compensation for the first
30 day of attendance and the state shall reimburse the city quarterly for any additional
31 juror compensation required under this section and for mileage beginning the first day of
32 attendance. The city shall use forms prescribed by the administrative office of the courts
33 to request reimbursement. The compensation paid jurors for the first day of attendance
34 shall be determined by the legislative authority of the city and shall be uniformly
35 applied.:
36

37 (5) The administrative office of the courts shall annually adjust the maximum amount
38 for the first day of attendance and the amount for subsequent days attendance for
39 inflation beginning on July 1, 2010 based on changes in the consumer price index
40 during the previous calendar year. "Consumer price index" means, for any calendar
41 year, that year's annual average consumer price index for urban wage earners and
42 clerical workers, all items, compiled by the bureau of labor and statistics, United States
43 department of labor..
44

1 (6) Jury trials shall be allowed in all criminal cases unless waived by the defendant.

2
3
4 **RCW 35.20.090 Trial by jury — Juror compensation and expense payments's**
5 **fees.**
6

7 (1) In all civil cases and criminal cases where jurisdiction is concurrent with district
8 courts as provided in RCW 35.20.250, within the jurisdiction of the municipal court, the
9 plaintiff or defendant may demand a jury, which shall consist of six citizens of the state
10 who shall be impaneled and sworn as in cases before district courts, or the trial may be
11 by a judge of the municipal court: PROVIDED, That no jury trial may be held on a
12 proceeding involving a traffic infraction.
13

14 (2) A defendant requesting a jury shall pay to the court a fee which shall be the same
15 as that for a jury in district court. Where there is more than one defendant in an action
16 and one or more of them requests a jury, only one jury fee shall be collected by the
17 court.
18

19 (3) Each juror may shall receive: (a) up to twenty~~sixty~~-five dollars, but in no case less
20 than ten dollars for each the first day in attendance upon the municipal court; and (b)
21 sixty-five dollars for each day thereafter; and in addition thereto shall receive mileage at
22 the rate determined under RCW 43.03.060.
23

24 (4) PROVIDED, That: tThe city is solely responsible for juror compensation for the
25 first day of attendance and the state shall reimburse the city quarterly for any additional
26 juror compensation required under this section and for mileage beginning the first day of
27 attendance. The city shall use forms prescribed by the administrative office of the
28 courts to request reimbursement. The compensation paid jurors for the first day of
29 attendance shall be determined by the legislative authority of the city and shall be
30 uniformly applied;.
31

32 (5) The administrative office of the courts shall annually adjust the maximum amount
33 for the first day of attendance and the amount for subsequent days attendance for
34 inflation beginning on July 1, 2010 based on changes in the consumer price index
35 during the previous calendar year. "Consumer price index" means, for any calendar
36 year, that year's annual average consumer price index for urban wage earners and
37 clerical workers, all items, compiled by the bureau of labor and statistics, United States
38 department of labor.
39

40 (6) Trial by jury shall be allowed in criminal cases involving violations of city
41 ordinances commencing January 1, 1972, unless such incorporated city affected by this
42 chapter has made provision therefor prior to January 1, 1972.

Jury Pay Legislative Proposal
Minimum Wage Version

RCW 2.36.150 Juror expense payments — Reimbursement by state — Pilot projects.

Jurors shall receive for each day's attendance, besides mileage at the rate determined under RCW 43.03.060, the following expense payments:

(1) ~~Grand jurors (whether grand, petit, district court or municipal court) may shall~~ receive: (a) up to twenty-five dollars an amount computed by multiplying times eight the current minimum hourly wage calculated by the department of labor and industries under RCW 49.46.020(4)(b), but in no case less than ten dollars for the first day of attendance; and (b) for each day thereafter, an amount computed by multiplying times eight the current minimum hourly wage calculated by the department of labor and industries under RCW 49.46.020(4)(b);

~~(2) Petit jurors may receive up to twenty-five dollars but in no case less than ten dollars;~~

~~—(3) Coroner's jurors may receive up to twenty-five dollars but in no case less than ten dollars;~~

~~—(4) District court jurors may receive up to twenty-five dollars but in no case less than ten dollars;~~

(2) The county is responsible for juror compensation for the first day of attendance, and the state shall reimburse the county at least quarterly for any additional juror compensation required under this section and for mileage beginning the first day of attendance.

PROVIDED, That a person excused from jury service at his or her own request shall be allowed not more than a per diem and such mileage, if any, as to the court shall seem just and equitable under all circumstances: PROVIDED FURTHER, That the state shall fully reimburse the county in which trial is held for all jury fees and witness fees related to criminal cases which result from incidents occurring within an adult or juvenile correctional institution: PROVIDED FURTHER, That the expense payments compensation paid to jurors for the first day of attendance shall be determined by the county legislative authority and shall be uniformly applied within the county.

~~For the fiscal year ending June 30, 2007, jurors participating in pilot projects in superior, district, and municipal courts may receive juror fees of up to sixty-two dollars for each day of attendance in addition to mileage reimbursement at the rate determined under RCW 43.03.060.~~

1 **RCW 3.50.135 Request for jury trial in civil cases — Exception — Fee — Juror**
2 **compensation — Jury trials in criminal cases.**

3 In all civil cases, the plaintiff or defendant may demand a jury, which shall consist of six
4 citizens of the state who shall be impaneled and sworn as in cases before district
5 courts, or the trial may be by a judge of the municipal court: PROVIDED, That no jury
6 trial may be held on a proceeding involving a traffic infraction. A party requesting a jury
7 shall pay to the court a fee which shall be the same as that for a jury in district court. If
8 more than one party requests a jury, only one jury fee shall be collected by the court.
9 The fee shall be apportioned among the requesting parties. Each juror may shall
10 receive: (a) up to ~~twenty-five dollars~~ an amount computed by multiplying times eight the
11 current minimum hourly wage calculated by the department of labor and industries
12 under RCW 49.46.020(4)(b), but in no case less than ten dollars for each the first day in
13 attendance upon the municipal court; and (b) for each day thereafter shall receive an
14 amount computed by multiplying times eight the current minimum hourly wage
15 calculated by the department of labor and industries under RCW 49.46.020(4)(b); and in
16 addition thereto shall receive mileage at the rate determined under RCW 43.03.060:
17 PROVIDED, That the compensation paid jurors for the first day of attendance shall be
18 determined by the legislative authority of the city and shall be uniformly applied:
19 PROVIDED, The city is responsible for juror compensation for the first day of
20 attendance and the state shall reimburse the city at least quarterly for any additional
21 juror compensation required under this section and for mileage beginning the first day of
22 attendance. Jury trials shall be allowed in all criminal cases unless waived by the
23 defendant.
24
25

26 **RCW 35.20.090 Trial by jury — Juror's fees.**

27 In all civil cases and criminal cases where jurisdiction is concurrent with district courts
28 as provided in RCW 35.20.250, within the jurisdiction of the municipal court, the plaintiff
29 or defendant may demand a jury, which shall consist of six citizens of the state who
30 shall be impaneled and sworn as in cases before district courts, or the trial may be by a
31 judge of the municipal court: PROVIDED, That no jury trial may be held on a proceeding
32 involving a traffic infraction. A defendant requesting a jury shall pay to the court a fee
33 which shall be the same as that for a jury in district court. Where there is more than one
34 defendant in an action and one or more of them requests a jury, only one jury fee shall
35 be collected by the court. Each juror may shall receive: (a) up to ~~twenty-five dollars~~ an
36 amount computed by multiplying times eight the current minimum hourly wage
37 calculated by the department of labor and industries under RCW 49.46.020(4)(b), but in
38 no case less than ten dollars for each the first day in attendance upon the municipal
39 court; and (b) for each day thereafter shall receive an amount computed by multiplying
40 times eight the current minimum hourly wage calculated by the department of labor and
41 industries under RCW 49.46.020(4)(b); and in addition thereto shall receive mileage at
42 the rate determined under RCW 43.03.060: PROVIDED, That the compensation paid
43 jurors for the first day of attendance shall be determined by the legislative authority of
44 the city and shall be uniformly applied; PROVIDED, The city is responsible for juror

1 compensation for the first day of attendance and the state shall reimburse the city at
2 least quarterly for any additional juror compensation required under this section and for
3 mileage beginning the first day of attendance. Trial by jury shall be allowed in criminal
4 cases involving violations of city ordinances commencing January 1, 1972, unless such
5 incorporated city affected by this chapter has made provision therefor prior to January 1,
6 1972.

Legislative Proposal for State Reimbursement of Percentage of
District Court and Qualifying Municipal Court Judges' Salaries

AN ACT Relating to court operations; amending RCW 3.58.030,
3.50.080 and 35.20.160; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec. 1. The legislature recognizes that trial courts are critical to maintaining the rule of law in a free society and that they are essential to the protection of the rights and enforcement of obligations for all. The legislature finds that the funding of trial courts in Washington state is inadequate and uneven across the state as a result of funding responsibility resting primarily upon local government. The legislature therefore finds that a more equitable balance of funding responsibility between state and local government must be achieved and that increased funding must be provided for the trial courts.

Sec. 101. RCW 3.58.030 and 1984 c 258 s 36 are each amended to read as follows:

The compensation of judges, clerks, judges pro tempore, deputy clerks, and court commissioners payable by the county shall be paid monthly out of the county treasury from the same funds out of which other salaried county officers are paid, provided that in addition to any reimbursements required by other provisions of law, the state shall reimburse the county a percentage of the total annual salaries of district court judges according to the following schedule:

- (1) Beginning on July 1, 2010, the state shall reimburse the county for ten percent of the total annual salaries of district court judges;
- (2) Beginning on July 1, 2011, the state shall reimburse the county for twenty percent of the total annual salaries of district court judges; and
- (3) Beginning on July 1, 2012, the state shall reimburse the county for thirty percent of the total annual salaries of district court judges.

Sec. 102. RCW 3.50.080 and 1984 c 258 s 111 are each amended to read as follows:

Salaries of municipal court judges shall be fixed by ordinance. All costs of operating the municipal court, including but not limited to salaries of judges and court employees, dockets, books of records, forms, furnishings, and supplies, shall be paid wholly out of the funds of the city or town, provided that in addition to any reimbursements required by other provisions of law, the state shall reimburse the city a percentage of the total annual salaries of qualifying municipal court judges, as defined in RCW 2.56.030(21)(b), according to the following schedule:

(1) Beginning on July 1, 2010, the state shall reimburse the city for ten percent of the total annual salaries of qualifying municipal court judges;

(2) Beginning on July 1, 2011, the state shall reimburse the city for twenty percent of the total annual salaries of qualifying municipal court judges; and

(3) Beginning on July 1, 2012, the state shall reimburse the city for thirty percent of the total annual salaries of qualifying municipal court judges.

The city shall provide a suitable place for holding court and pay all expenses of maintaining it.

All employees of the municipal court shall, for all purposes, be deemed employees of the city or town. They shall be appointed by and serve at the pleasure of the court.

Sec. 103. RCW 35.20.160 and 1965 c 147 s 3 are each amended to read as follows:

The total of the salaries of each municipal judge under this chapter shall be fixed by the legislative body of the city at not less than nine thousand dollars per annum, to be paid in monthly or semimonthly installments as for other officials of the city, and such total salaries shall not be more than the salaries paid the superior court judges in the county in which the court is located, provided that in addition to any reimbursements required by other provisions of law, the state shall reimburse the city a percentage of the total annual salaries of qualifying municipal court judges, as defined in RCW

2.56.030(21)(b), according to the following schedule:

(1) Beginning on July 1, 2010, the state shall reimburse the city for ten percent of the total annual salaries of qualifying municipal court judges;

(2) Beginning on July 1, 2011, the state shall reimburse the city for twenty percent of the total annual salaries of qualifying municipal court judges; and

(3) Beginning on July 1, 2012, the state shall reimburse the city for thirty percent of the total annual salaries of qualifying municipal court judges.

State of Washington
Decision Package

Agency: Administrative Office of the Courts

Decision Package Code/Title: Removing Language Barriers to the Courts

Budget Period: 09-11 Biennium

Budget Level: Performance Level

Recommendation Summary Text:

All Washington trial courts are required by state and federal law to provide meaningful language access to court programs and services for people of limited English proficiency. Executive Order 13166, signed by President William J. Clinton on August 11, 2000, creates the framework for requiring recipients of federal funds to provide language assistance to persons of limited English proficiency accessing programs and services. Washington State HB 2176, signed into law on April 1, 2008, charges the Administrative Office of the Courts (AOC) to reimburse local courts for up to one-half of the costs for using credentialed and qualified interpreters for foreign language court users and deaf and hard of hearing persons. Further, state law requires courts to provide interpreters for limited English proficient (LEP) (RCW 2.43) and deaf and hard of hearing (RCW 2.42) persons when using the courts or court-related services. The Administrative Office of the Courts will continue to assist courts in developing Language Assistance Plans (LAP's) for LEP persons as recommended by the Department of Justice, provide LAP plan implementation assistance, provide qualified interpreters in court proceedings, and distribute state funds to minimize the financial burden on local courts when using the most highly qualified interpreters.

In 2007 the Washington Legislature appropriated \$2,000,000 to the Administrative Office of the Courts (AOC) to aid trial courts in creating and implementing LAP plans, to develop a cost-sharing program with trial courts in which the AOC reimburses trial courts 50% of the cost of certified or registered interpreters, and to translate statewide forms into the most commonly used languages. This funding has enabled the AOC to provide these services to a portion of trial courts statewide. Due to the success of this effort and the need to provide meaningful access to courts for all LEP individuals statewide, the AOC seeks funding to extend these services and initiatives to all trial courts.

This plan will help courts to comply with state and federal policy and to secure the constitutional rights of deaf, hard of hearing and limited English speaking persons by:

- Replacing the fiscal barriers with financial incentives for courts to use qualified court interpreters;
- Creating a financial incentive for interpreters to test to become qualified for court interpreting, thus enlarging the pool of qualified court interpreters; and
- Improving access to court services for LEP and deaf and hard of hearing individuals.

Fiscal Detail

	<u>FY 2008</u>	<u>FY 2009</u>	<u>Total</u>
LEP and Visual Language Court Interpreter Expenses	\$1,993,495	\$1,993,495	\$3,986,990
Staffing	\$99,020	\$90,870	\$189,890
Total	\$2,092,515	\$2,084,365	\$4,176,880

Package Description:

Narrative Justification and Impact Statement

According to the 2000 Census, nearly 150,000 Washington residents speak English less than well. Another 14,000 residents are deaf, and many more are considered hard of hearing. When entering the court system as criminal defendants, crime victims, or civil litigants, the language barrier between these individuals and court officials and other participants has potentially dire consequences. Without proper accommodations, they are deprived of meaningful access to justice.

State and Federal Requirements for Language Access

Title VI, 42 U.S.C. §200D of the 1964 Civil Rights Act prohibits discrimination based on race, color or national origin by any public entity that receives federal funding. The U.S. Supreme Court has held that pursuant to Title VI, federal assistance recipients must provide non-English Language assistance to LEP individuals who utilize the recipients' federally subsidized services. Lau v. Nichols, 414 U.S. 563 (1974). Executive Order 13166, signed by President William J. Clinton on August 11, 2000, requires all federal agencies to promulgate guidance for their financial assistance recipients regarding the provision of services to LEP individuals. The U.S. Department of Justice guidance instructs trial courts receiving state funding to provide LEP individuals with meaningful access to court programs and activities.

Further, state law mandates the courts to provide language assistance to both LEP and deaf and hard of hearing court users. RCW 2.42 directs courts to provide qualified visual language interpreters for hearing impaired persons during court proceedings, in meetings with counsel and in any court-order activities, as well as for hearing impaired parents in juvenile matters. RCW 2.43 requires courts to provide qualified interpreters for LEP populations in all criminal proceedings as well as civil proceedings when the party is determined to be indigent. And most recently, Washington HB 2176 signed into law on April 1, 2008, requires the Administrative Office of the Courts to reimburse trial courts for up to one-half of the costs for courtroom interpretation, where the interpreters hired are credentialed or qualified.

Accessibility to Washington Courts

LEP and hard of hearing individuals cannot be afforded due process in the courts without the opportunity to fully understand and participate in the judicial process. Failure to provide clear, concise interpretation denies these individuals that opportunity, leading to misunderstanding, mistrust, confusion, administrative inefficiencies and potentially incorrect judicial orders and verdicts. Yet interpreting is a highly technical skill requiring far more than mere language knowledge. Effective interpreters must be fluent in both languages, understand the culture and nuances of both cultures, fully comprehend legal procedure and terminology in both languages, be prepared for a wide variety of unexpected slang and terminology encountered in the courtroom, and have the highly developed capacity to engage in the processes of simultaneous interpreting, consecutive interpreting, and sight translation at a moment's notice. Few individuals have these abilities, and it is crucial for courts to recognize and hire interpreters who have achieved the highest interpreting credentials available, as a means to ensure that court customers are receiving the most accurate language access possible.

Barriers to Meeting State and Federal Requirements

Local courts face significant barriers to providing these services in accordance with state policy and local needs:

- **Qualified interpreters are in short supply and come at a higher cost than less qualified interpreters.** Court interpreting is a highly skilled job. Merely being bilingual, even at a high level of fluency, is insufficient qualification for court interpreting. Currently in Washington, there is only about a 12% passing rate among those who take the certification test (available in only nine spoken languages), and only ten interpreters for the deaf and hard of hearing are certified at the level recommended for court proceedings. As a result, certified court interpreters are typically paid at a higher rate than non-certified interpreters. The current market rate for certified court interpreters in Washington is approximately \$50 per hour; current rates vary for certified court interpreters from \$24 to over \$100 per hour, and rates for non-certified interpreters range from \$20 to \$60. Additionally, the most qualified interpreters for the deaf and hard of hearing are paid at the top of the scale set by DSHS Office of Deaf and Hard of Hearing (ODHH) (\$50 per hour).

- **Interpreter costs become even more significant when courts are located far from where qualified interpreters reside.**

LEP and hearing impaired populations exist around the state, and in some instances, the nearest qualified interpreter may live over 100 miles away. For those courts that do not have certified interpreters living nearby, mileage and travel time costs become a significant expense on top of the basic service rate. For instance, Washington's eight certified Korean interpreters all live in the central Puget Sound area, while more than 3,000 Korean-speaking residents live throughout the rest of the state.

- **Court resources are limited.**

Together, the cost of meeting the array of service needs and requirements to improve court access for LEP and deaf and hard of hearing populations is significant. For interpreter services, all but fifty-six local courts are responsible for the full cost of the interpreter for indigent LEP parties in all criminal and civil proceedings and for other court-related activities, as well as for deaf and hard of hearing populations. Many trial courts, already under-funded, simply cannot afford to meet needs such as paying the higher rates of appropriately qualified interpreters. Fifty-six trial courts are participating in the current effort to provide state funding to subsidize interpreter expenses. This has resulted in lower costs to local courts, and higher quality interpretation in their courtrooms.

Removing Language Barriers to Washington Courts

Over the past biennium the AOC has used state dollars to assist trial courts to develop and implement language assistance plans, create methods to provide language access to LEP court customers, and subsidize the cost of certified and registered interpreters in the courtroom. Additional funding will allow the AOC to assist all trial courts in providing language access to LEP and deaf and hard of hearing persons statewide.

With the funding provided in 2007, the AOC implemented a cost-sharing plan where fifty-six local courts receive 50% reimbursement for the costs of using certified, registered, and qualified (in cases where there are no certified or registered interpreters for that language) interpreters for LEP and deaf / hard of hearing court users. These efforts have increased the quality of interpretation in the courtroom, enhanced the judicial process for deaf / hard of hearing and LEP individuals, made interpreted legal proceedings flow with fewer language obstacles, and reduced the financial strain on counties and municipalities. Increased funding will enable the AOC to extend these opportunities to all trial courts statewide.

The AOC will expand its cost-sharing program to provide certified and registered interpreter services for LEP persons in all courts in the state. When courts use Washington certified or registered interpreters at the market rate (\$50), or qualified interpreters for languages that do not have certified or registered interpreters, with standard minimums and travel costs, the AOC will reimburse the courts 50% of the hourly rate and travel costs.

AOC will reimburse courts 50% of costs of providing qualified interpreters for the deaf and hard of hearing when interpreters are paid according to the scale set by the Office of the Deaf and Hard of Hearing (ODHH) and have been referred by ODHH or a community center for the hearing impaired.

AOC will reimburse courts 50% of the fee when using certified and registered interpreters over the telephone for LEP persons in court proceedings. The rate for this service will be higher than using Language Line, due to the higher qualifications of these interpreters, and it will be higher than qualified in-person court interpreters because there will be no minimum telephone service time. This rate is set at \$1.64 per minute. (This does not apply to services for the deaf / hard of hearing, as the Washington Relay Service is already a free service.)

This program will continue to significantly reduce the cost to local government and create an incentive to use verifiably qualified court interpreters. It will encourage certified interpreters to work in the most remote and financially distressed areas by paying them the market rate anywhere in the state, and it will encourage courts to use a telephone alternative with qualified court interpreters for court proceedings when one cannot be there in person. It may also help to encourage non-certified interpreters to work for certification or registration, where applicable, giving them a clear financial incentive to build the skills they need in order to become certified or registered.

How contributes to strategic plan:

NOTE: This highlighted section needs to be updated in light of developments over the past year.

Performance Measure Detail

Goal:

	Incremental Changes	
	FY 2008	FY 2009
Local LEP plans developed	50%	100%
Funds dispersed for local LEP plan implementation	50%	100%
Highest priority forms translated	100%	
Second priority forms translated		100%
Courts use qualified interpreters for 100% of in-court proceedings	85%	90%
Increased use of Language Line for out-of-court services	Baseline not available; set for FY 2009	

Reason for change:

State and federal policy has been developed to ensure LEP and deaf / hard of hearing persons have access to the courts – to remove significant barriers to their constitutional and other rights. However, many courts continue to face significant financial barriers to following state and federal guidelines, such as the higher cost of translating forms at the local level and hiring qualified interpreters for court proceedings. This cost-sharing program will continue to help remove language barriers to the courts and provide a more efficient use of public funds for translating forms and using out-of-court telephone interpreter services.

Impact on clients and services:

Improved access to courts and greater understanding of legal rights and obligations will ensure meaningful court participation and uphold the constitutional rights of deaf / hard of hearing and limited English speaking court users.

Impact on other state programs:

If deaf / hard of hearing and LEP persons are aware of their rights and obligations, they will be able to more effectively access services by other agencies.

Relationship to capital budget:

None.

Required changes to existing RCW, WAC, contract, or plan:

None.

Alternatives explored by agency:

AOC is currently working on other solutions to address non-financial problems. For instance, the agency is developing a more robust interpreter certification training program and will be administering a biannual testing and training regimen for registered interpreters.

It does not appear there is another local solution to encourage the use of certified or registered interpreters when the barrier to using them is financial in nature. Qualified interpreters can be cost-prohibitive for local courts with limited resources to provide for a wide range of essential court functions.

Budget impacts in future biennia:

Interpreter costs will increase as more interpreters achieve certification or registered status, and as Washington's LEP population continues to grow.

Distinction between one-time and ongoing costs:

Interpreter costs will be ongoing.

Effects of non-funding:

Deaf, hard of hearing and LEP populations will continue to be underserved by Washington courts, as courts will not be able to fully comply with state and federal mandates. Many trial courts will continue to use unqualified interpreters, inadequately communicating critical information to and from criminal defendants, crime victims and others – compromising their rights and maintaining a system of unequal access to justice. Courts that remain non-compliant with DOJ guidelines will be subject to liabilities including loss of federal funds.

Expenditure Calculations and Assumptions:

Using the Highest Quality of Foreign Language and Visual Language Interpreters for Court Proceedings

In order to receive funding under the current scheme employed in fifty-six local courts, courts will be required to use certified court interpreters, paying them \$50 per hour with at least a one-hour minimum. The state will pay 50% (\$25/hr) of all of these costs. For travel, interpreters will be reimbursed for mileage at the standard rate (\$0.505/mi). It is assumed that mileage costs will equal approximately 7% of service costs, based on average costs across courts in three sample counties. For travel of 16 miles or more and at least .5 hour, the state will reimburse local courts 50% of \$25/hr (one-half the hourly pay rate). The state will reimburse travel time or mileage but not both. Local courts will be responsible for the remainder. If an interpreter requires the jurisdiction to pay more than \$50 per hour or had a higher minimum fee-for-service time, the local jurisdiction will assume full responsibility for those costs. For salaried interpreters that are registered or certified, courts will be reimbursed at 50% of their salaries up to \$60,000 plus 27% in benefits (state share = \$30,000 plus 13.5% benefits).

Statewide interpreter service costs are estimates based on a sample of actual interpreter costs for all courts within selected counties, and comparing those costs against U.S. Census LEP figures. The counties providing actual interpreter cost data are Benton, Clark, Douglas, Franklin, Jefferson, Kitsap, Mason, Pierce, Skagit, Snohomish, and Spokane. At \$50 per hour, the cost per LEP population was determined for the courts in each of these counties, and the average was applied to the courts in the remaining counties to reverse the calculations and arrive at the number of estimated interpreter service hours by county. Costs were adjusted for counties of high population density and low population density.

Projected Biannual Costs for 50% Reimbursement of Certified, Registered and Qualified Court Interpreter Expenses			
Adams	\$58,027	Lewis	\$34,795
Asotin	\$2,772	Lincoln	\$739
Benton-Franklin	\$272,725	Mason	\$28,301
Chelan	\$111,223	Okanogan	\$50,530
Clallam	\$23,958	Pacific	\$18,454
Clark	\$214,196	Pend Oreille	\$1,294
Columbia	\$1,452	Pierce	\$515,302
Cowlitz	\$41,461	San Juan	\$3,062
Douglas	\$56,126	Skagit	\$87,813
Ferry	\$924	Skamania	\$2,244
Garfield	\$290	Snohomish	\$453,116
Grant	\$194,700	Spokane	\$118,734
Grays Harbor	\$40,128	Stevens	\$6,125
Island	\$67,346	Thurston	\$118,166
Jefferson	\$7,894	Wahkiakum	\$317
King	\$2,209,680	Walla Walla	\$72,626
Kitsap	\$121,876	Whatecom	\$93,951
Kittitruas	\$24,050	Whitman	\$51,374
Klickitat	\$14,626	Yakima	\$426,591
Total			\$5,546,990

Object Detail

	<u>FY 2008</u>	<u>FY 2009</u>	<u>Total</u>
LEP and Visual Language Court Interpreter Expenses	\$1,993,495	\$1,993,495	\$3,986,990
AOC Staffing and Start Up Costs	\$99,020	\$90,870	\$189,890
Total	\$2,092,515	\$2,084,365	\$4,176,880

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Appendix A – Table Displays of Selected LEP Populations and Interpreter Locations (by Region)

NOTE: Data needs to be updated by staff

LEP Population Counts & Certified Interpreter Availability for Selected Languages (by Region)

Snohomish

Language Spoken at Home	Speak English "not well" or "not at all"	Interpreters in Region	LEP Pop. per Interpreters in Region
Chinese	785	1	785
Korean	2,035	2	1018
Laotian	145	0	(145)
Mon-Khmer	425	0	(425)
Russian	1,425	4	356
Spanish	4,130	7	590
Vietnamese	1,430	2	715

Tri-County

Language Spoken at Home	Speak English "not well" or "not at all"	Interpreters in Region	LEP Pop. per Interpreters in Region
Chinese	75	0	(75)
Korean	40	0	(40)
Laotian	0	0	0
Mon-Khmer	20	0	(20)
Russian	0	0	0
Spanish	21,010	12	1751
Vietnamese	4	0	(4)

Spokane

Language Spoken at Home	Speak English "not well" or "not at all"	Interpreters in Region	LEP Pop. per Interpreters in Region
Chinese	79	0	(79)
Korean	109	0	(109)
Laotian	35	0	(35)
Mon-Khmer	0	0	0
Russian	1,355	3	452
Spanish	985	5	197
Vietnamese	510	0	(510)

Pacific

Language Spoken at Home	Speak English "not well" or "not at all"	Interpreters in Region	LEP Pop. per Interpreters in Region
Chinese	190	0	(190)
Korean	620	1	620
Laotian	190	0	(190)
Mon-Khmer	360	0	(360)
Russian	19	0	(19)
Spanish	3,570	10	357
Vietnamese	450	1	450

Olympic

Language Spoken at Home	Speak English "not well" or "not at all"	Interpreters in Region	LEP Pop. per Interpreters in Region
Chinese	90	0	(90)
Korean	125	0	(125)
Laotian	10	0	(10)
Mon-Khmer	0	0	0
Russian	4	1	4
Spanish	1,395	3	465
Vietnamese	135	0	(135)

Tacoma-Pierce County

Language Spoken at Home	Speak English "not well" or "not at all"	Interpreters in Region	LEP Pop. per Interpreters in Region
Chinese	145	0	(145)
Korean	2,885	1	2885
Laotian	165	0	(165)
Mon-Khmer	1,165	2	583
Russian	930	0	(930)
Spanish	5,255	7	751
Vietnamese	1,895	0	(1895)

Seattle-King

Language Spoken at Home	Speak English "not well" or "not at all"	Interpreters in Region	LEP Pop. per Interpreters in Region
Chinese	9,530	4	2383
Korean	4,750	3	1583
Laotian	905	0	(905)
Mon-Khmer	1,665	1	1665
Russian	3,260	15	217
Spanish	18,540	55	337
Vietnamese	8,715	6	1453

Benton-Franklin

Language Spoken at Home	Speak English "not well" or "not at all"	Interpreters in Region	LEP Pop. per Interpreters in Region
Chinese	10	0	(10)
Korean	75	0	(75)
Laotian	185	0	(185)
Mon-Khmer	15	0	(15)
Russian	125	0	(125)
Spanish	10,560	11	960
Vietnamese	190	0	(190)

Eastern Washington

Language Spoken at Home	Speak English "not well" or "not at all"	Interpreters in Region	LEP Pop. per Interpreters in Region
Chinese	104	0	(104)
Korean	85	0	(85)
Laotian	20	0	(20)
Mon-Khmer	0	0	0
Russian	60	0	(60)
Spanish	2,530	3	843
Vietnamese	4	0	(4)

Northwest

Language Spoken at Home	Speak English "not well" or "not at all"	Interpreters in Region	LEP Pop. per Interpreters in Region
Chinese	155	1	155
Korean	75	0	(75)
Laotian	0	1	0
Mon-Khmer	25	0	(25)
Russian	590	2	295
Spanish	4,775	9	531
Vietnamese	175	0	(175)

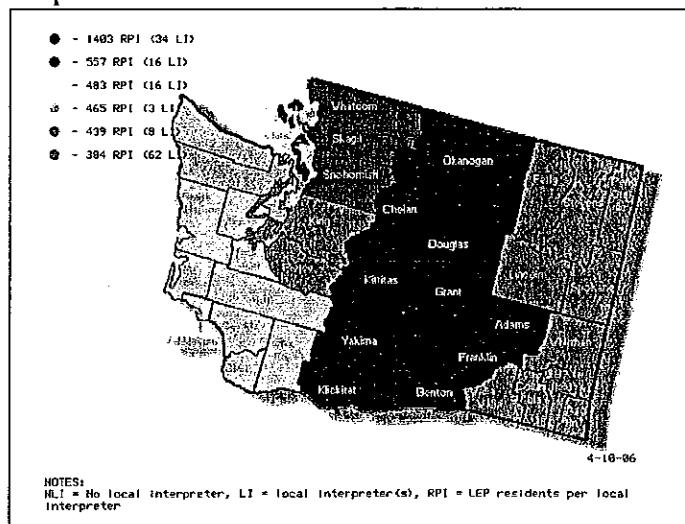
North Central

Language Spoken at Home	Speak English "not well" or "not at all"	Interpreters in Region	LEP Pop. per Interpreters in Region
Chinese	30	0	(30)
Korean	25	0	(25)
Laotian	10	0	(10)
Mon-Khmer	10	0	(10)
Russian	250	0	(250)
Spanish	16,115	11	1465
Vietnamese	35	0	(35)

Southwest

Language Spoken at Home	Speak English "not well" or "not at all"	Interpreters in Region	LEP Pop. per Interpreters in Region
Chinese	335	0	(335)
Korean	250	0	(250)
Laotian	59	0	(59)
Mon-Khmer	190	0	(190)
Russian	2,655	5	531
Spanish	4,160	6	693
Vietnamese	745	0	(745)

Spanish



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June 18, 2008

TO: Chief Justice Gerry L. Alexander
Chair, Board for Judicial Administration

Judge Vickie I. Churchill
Member Chair, Board for Judicial Administration

FROM: Judge Marilyn Paja
President, District and Municipal Court Judges' Association

RE: PROPOSED AMENDMENT OF GR 29(K) JUDICIAL
SERVICES CONTRACTS

The District and Municipal Court Judges' Association (DMCJA) established an ad hoc committee to explore and develop a recommendation to address conflicts between contracts for judicial services and the requirements of General Rule 29 for presiding judges and judicial independence. Personal services contracts are frequently offered to part-time municipal court judges as a basis for their employment. These contracts often include provisions that define and limit the power and authority of the judge in ways that conflict with GR 29, Chapter 3.50 and Chapter 44.49.160 RCW. They often characterize the employment of the judicial officer as an independent contractor and divest the judge of court management authority.

The Ethics Advisory Committee's Ethics Opinion 99-9 addressing the propriety of judges entering into judicial services contracts cautioned about contract provisions that "create an impropriety or appearance of impropriety concerning a judge's activities." New judges may be unknowingly lured into ethical jeopardy by the content and form of these personal services contracts.

In addition, there has been recent discussion within AOC and some courts concerning the categorization of pro tem judges as 'employees' as opposed to 'independent contractors' for purposes of taxes and benefits. If a pro tem is classified as an 'employee', certainly the judge must be also. Not all municipal governments take this position.

Based on the foregoing concerns, the DMCJA recommends to the Board for Judicial Administration (BJA) the following changes to General Rule 29(k):

Judicial Services Employment Contracts. A judicial officer may contract with a municipal or county authority for salary and benefits to serve as a judicial officer. The personal service employment contract shall not contain provisions which conflict

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with this rule, the Code of Judicial Conduct or statutory judicial authority, or which would create an impropriety or the appearance of impropriety concerning the judge's activities. The employment contract should acknowledge the court is a part of an independent branch of government and that the judicial officer or court employees are bound to act in accordance with the provisions of the Code of Judicial Conduct and ~~this rule~~ Washington State court rules.

~~Commentary~~

~~The Board for Judicial Administration should establish
a model judicial services contract.~~

RCW 49.44.160

Public employers — Intent.

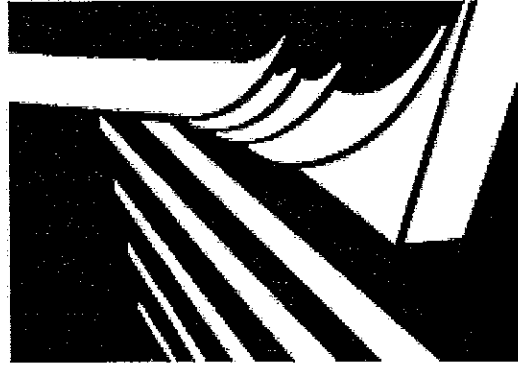
The legislature intends that public employers be prohibited from misclassifying employees, or taking other action to avoid providing or continuing to provide employment-based benefits to which employees are entitled under state law or employer policies or collective bargaining agreements applicable to the employee's correct classification.

Chapter 155, Laws of 2002 does not mandate that any public employer provide benefits to actual temporary, seasonal, or part-time employees beyond the benefits to which they are entitled under state law or employer policies or collective bargaining agreements applicable to the employee's correct classification. Public employers may determine eligibility rules for their own benefit plans and may exclude categories of workers such as "temporary" or "seasonal," so long as the definitions and eligibility rules are objective and applied on a consistent basis. Objective standards, such as control over the work and the length of the employment relationship, should determine whether a person is an employee who is entitled to employee benefits, rather than the arbitrary application of labels, such as "temporary" or "contractor." Common law standards should be used to determine whether a person is performing services as an employee, as a contractor, or as part of an agency relationship.

Chapter 155, Laws of 2002 does not modify any statute or policy regarding the employment of: Public employee retirees who are hired for postretirement employment as provided for in chapter 41.26, 41.32, 41.35, or 41.40 RCW or who work as contractors; or enrolled students who receive employment as student employees or as part of their education or financial aid.

The DMCJA sincerely thanks the BJA for its consideration of this proposal to amend General Rule 29.

THE LONG-RANGE STRATEGIC PLAN
FOR THE BOARD FOR JUDICIAL ADMINISTRATION



WASHINGTON
COURTS

INTRODUCTION

In August 1999, the final report of the Washington State Commission on Justice, Efficiency and Accountability (JEA) recommended a fundamental restructuring of the Board for Judicial Administration. In January 2000, the Supreme Court amended the Board for Judicial Administration Rules and the Board for Judicial Administration amended their by-laws effecting the changes recommended by the Commission.

The Long Range Plan for the Board for Judicial Administration has as its basis the Board for Judicial Administration Rules (BJAR) and the By-Laws of the Board for Judicial Administration. Taken together, those documents outline the vision, mission, and issues the Board for Judicial Administration is charged with addressing.

"The only way for a decentralized organization like the Washington state judiciary to cast a single vision is through an effective governance structure authorized to adopt policies and provide strategic leadership." – Commission on Justice, Efficiency and Accountability

"The power of the judiciary to make administrative policy governing its operations is an essential element of its constitutional status as an equal branch of government. The Board for Judicial Administration is established to adopt policies and provide strategic leadership for the courts at large, enabling the judiciary to speak with one voice." – BJAR Preamble

This Long Range Plan is designed to formalize that vision as well as to create a platform for on-going operational deployment of the goals, objectives and tasks. While this document must be viewed in the context of planning for the judiciary as a whole, the focus is the specific strategies that the Board for Judicial Administration will employ to achieve its long range goals.

VISION, MISSION, AND ISSUES

MISSION

TO ENHANCE THE JUDICIARY'S ABILITY TO SERVE AS
AN EQUAL, INDEPENDENT AND RESPONSIBLE BRANCH
OF GOVERNMENT.

VISION

THE BOARD FOR JUDICIAL ADMINISTRATION WILL BECOME THE LEADER AND
VOICE OF THE WASHINGTON STATE COURTS.

ISSUES

- I. PROVIDE EFFECTIVE LEADERSHIP AND A UNIFIED VOICE FOR THE JUDICIARY
- II. FOSTER INTER-BRANCH RELATIONS
- III. DEVELOP AND MAINTAIN THE JUDICIAL LONG RANGE PLAN
- IV. ENSURE RESOURCES AND FUNDING FOR THE WASHINGTON COURTS
- V. ADVANCE THE ADMINISTRATION OF JUSTICE
- VI. PRESERVE THE INDEPENDENCE OF THE JUDICIARY
- VII. PROMOTE PUBLIC TRUST AND CONFIDENCE IN THE JUDICIARY

ISSUE I.

PROVIDE EFFECTIVE LEADERSHIP AND A UNIFIED VOICE FOR THE JUDICIARY

The vision for the Board for Judicial Administration is that the Board serves as a unifying voice and provides strategic leadership to the judiciary. This can only be achieved with the consent and active participation of the judges' affiliate associations. One of the key issues facing the Board for Judicial Administration is to earn and maintain the trust of these associations and to act in the best interest of the judiciary while remaining mindful of the needs of its constituent groups. The goals under this issue focus the efforts of the Board for Judicial Administration on communication and developing a trusting relationship within the judiciary.

GOAL 1.1 THE JUDICIAL BRANCH WILL SPEAK WITH ONE VOICE

COMMENTARY: The cornerstone of the Commission on Judicial Efficiency and Accountability's findings and recommendations was to unify the judiciary through reorganization of the Board for Judicial Administration and the concept that the judiciary "speak with one voice." Speaking with one voice requires commitment, discipline, and a connection among and between the judges of the state and the Board for Judicial Administration.

The overarching desired outcome is that those listening to the judiciary will hear a single message and develop trust and confidence that when they hear that message, it can be relied upon and has the support of the entire judiciary.

"The structure of the Board for Judicial Administration must enable the judiciary to speak with one voice without squelching dissent or pretending unanimity."

"If the judiciary is to 'speak with one voice' the Board for Judicial Administration must truly represent the overall system interests rather than the agenda of individual court levels."

"Members should be selected by their affiliate associations and have explicit responsibility to the judiciary as a whole, not to their respective constituencies."

"Also, as a practical matter it is unlikely that any issue will be badly or arbitrarily decided because of the recognition, shared by all, that ultimately the decisions of the Board for Judicial Administration and the effectiveness of the Board itself must rest on the twin pillars of their intrinsic merit and a broad consensus support from constituent judges."

Commission on Judicial Efficiency and Accountability

This does not mean that individual voices will not be heard. Rather, because the Board for Judicial Administration is a deliberative body, allowing time for members to report to and receive feedback from their colleagues, it is expected that the Board for Judicial Administration will produce results that are supportable by the overwhelming majority of individual judges and their constituent associations, boards, and commissions. The expectation is that judges, having had the opportunity to provide their input, will recognize the overarching benefit to the judiciary of speaking with one voice, even if their personal point of view did not prevail.

Nor does this mean that the Board for Judicial Administration will be the only voice of the judiciary. Inherent in the concept of speaking with one voice is the result of "many voices saying the same thing." If the judiciary is to be truly effective as a collective organization, the messages sent from all judges must be consistent.

Objective:

Provide a conduit through the BJA to promote the interest and consistently express the positions of the judiciary.

Task:

1. The Administrative Office of the Courts (AOC) will create a judicial communication plan. The plan will provide a process to facilitate focused communication regarding issues that arise affecting the administration of the Washington courts. Communication efforts should be tailored to each specific issue, but should generally follow the process outlined in the plan.

GOAL 1.2

THE BOARD FOR JUDICIAL ADMINISTRATION WILL FOSTER COORDINATION AND COMMUNICATION WITHIN THE JUDICIAL BRANCH

COMMENTARY: Consistency of the message within and from the judiciary can only be achieved if members are informed, supported, and coordinated. The Board for Judicial Administration and the judiciary must therefore enhance and maintain a structure for communication and coordination of ideas and activities.

Objective:

Promote communication within the judiciary to facilitate dissemination of information and allow for feedback, input, and coordination of effort.

Tasks:

1. AOC, together with the judges' association boards, will continue to refine and improve the process of judicial review and commentary regarding legislative positions. The web-based legislation tracking system will be enhanced and made available for viewing by judges.
2. The BJA will continue to support the creation of trial court coordination councils. Grant funding will be made available for projects that facilitate communication and coordination among trial court levels and with local justice system agencies.
3. The BJA will encourage the upgrading of the Washington Courts website to provide an easily accessed forum for the exchange and dissemination of court innovations, best practices, ideas, and educational topics.

GOAL 1.3

THE BOARD FOR JUDICIAL ADMINISTRATION WILL FOSTER AND DEVELOP LEADERSHIP WITHIN THE JUDICIAL BRANCH

COMMENTARY: The judiciary's success in earning the public's trust and confidence is dependent upon the presence of strong and recognized leaders at all levels of court. General Rule 29 adopted in April of 2002 defined the position of presiding judge as one of leadership. The Board for Judicial Administration has established the Presiding Judges' Conference to support and develop the leadership skills of judges serving in that position. In doing so, the judiciary has begun to develop a structure that fosters the development of judges as leaders in their courts, communities, as members of judicial branch partner organizations, as representatives of the judiciary, and as elected members of state and local government.

Objective:

Provide education for presiding-judges that focuses on the development of leadership skills and provide tools to be used in the daily management and administration of their courts.

Tasks:

1. AOC-The Presiding Judges' Conference will continue to refine and improve the educational content of the Presiding-Judges' Conference. The focus will be on enhancing leadership, management, and communication skills.
2. AOC will provide a one-day leadership seminar for new-presiding-judges-as-part-of-the-Presiding-Judges' Conference.
- 2-3. Investigate/develop ways to encourage judges to participate in judicial branch leadership activities.

ISSUE II.

FOSTER INTER-BRANCH RELATIONS

To preserve the integrity of the judicial branch, the courts must remain above the "political fray." However, the exercise of restraint by the judiciary often results in the perception that judges are disinterested or aloof. This can lead to a significant knowledge gap among the three branches of government.

GOAL 2.1

PROMOTE AND FACILITATE WORKING RELATIONSHIPS WITH THE EXECUTIVE AND LEGISLATIVE BRANCHES OF STATE GOVERNMENT BASED ON MUTUAL RESPECT AND COMMUNICATION

COMMENTARY: The courts must interact with the executive and legislative branches on issues of keen interest and pertinence to the administration of justice without involvement in the political process. This goal encompasses defining the nature and scope of appropriate inter-branch relations for the judiciary, communicating to the other branches the nature and extent of the restraints on judicial participation in the political process and finally the exercise, within the defined boundaries, of those relations.

Objective:

Define and communicate the scope of appropriate inter-branch relations for the judiciary.

Tasks:

1. The BJA will develop a legislative bench book focusing on the nature and extent of judicial participation in the political and legislative process. The bench book will be made available to the judiciary and to members of the executive and legislative branches.
2. The BJA will re-institute informal, topical lunch meetings and pre-session dinners with executive and legislative branch leadership. These meetings will focus on building relationships and improving communication between the branches, as well as providing education regarding current judicial branch issues and court processes.
3. The BJA will encourage judges to offer their local legislators guided courthouse tours.

3.4. The BJA will research the impact of local government inter-branch relations and communications on funding variability across courts relative to available fiscal resources.

ISSUE III.

DEVELOP AND MAINTAIN THE LONG RANGE PLAN FOR THE JUDICIARY

The judges' associations and various committees each have a role in developing and implementing judicial initiatives within their specific sphere of interest. Collectively, their efforts constitute the agenda of the judiciary. The Board for Judicial Administration is charged with presenting the collective agenda as a cohesive plan. In doing so, the judiciary will project a strong image of thoughtful and deliberate action to the public and other constituencies.

GOAL 3.1

WORK WITH JUDICIAL REPRESENTATIVES TO DEVELOP AND MAINTAIN A COMPREHENSIVE JUDICIAL LONG RANGE PLAN

COMMENTARY: Initial efforts to develop a Long-Range Plan for the judiciary focused on developing a comprehensive inventory of activities including a brief description of the context or impetus for each activity. General agreement was also attained on the major issues facing the judiciary. The focus of the completed Long-Range Strategic Plan will be to build upon the previous work using the framework of this Plan and to articulate the specific goals which current and future activities support.

Objective:

Create a long range plan that will collect and formalize the goals, objectives, and tasks supported by current and planned judicial activity.

Tasks:

1. The BJA will expand the Long-Range Planning Committee to include judicial partner representatives.
2. The expanded Committee will decide on a process to coordinate the compilation of the Judicial Long-Range Plan.

GOAL 3.2

EDUCATE THE PUBLIC AND JUDICIAL BRANCH CONSTITUENCIES AND PARTNERS

COMMENTARY: A long-range plan serves two purposes: 1) it directs and focuses the efforts and activities of an organization and 2) it communicates to others what an organization is doing and can be expected to do. It also tells others that an organization knows what it is doing and why. This goal informs the court community and their external partners and constituencies about the activities of the judiciary and demonstrates to them that the judiciary operates with directed purpose based on carefully formulated goals.

Objective:

Inform the judicial branch, judicial branch partners, the legislative and executive branches, and the public of the Long-Range Plan goals.

Tasks:

1. The BJA Long-Range Planning Committee will publish the Long-Range Plan on the Washington Courts website.
2. The Public Trust and Confidence Committee will inform and educate the public on the goals contained in the plan as part of their communication strategy.
3. The BJA Long-Range Planning Committee will provide an overview of the plan goals at the judicial, presiding judge, and court manager conferences.

GOAL 3.3

DEMONSTRATE THAT THE JUDICIARY CAN BE RELIED UPON TO EXECUTE THE LONG RANGE PLAN

COMMENTARY: The development and distribution of a long range plan creates expectations of performance and execution. Actual performance and execution fosters respect and trust: respect for the organization's ability to do what it says it will do and trust that an organization can be relied upon in future endeavors. To develop the trust and respect of the court community and their external partners and constituencies the judiciary must demonstrate and communicate success in completing tasks that result in meeting objectives in support of stated goals.

Objective:

Demonstrate the ability to successfully meet the objectives and complete the tasks that support the plan's stated goals.

Tasks:

1. AOC will create a milestone chart to track progress. The chart will include a task list, responsibility, target dates, and status.
2. AOC will publish an annual progress report based on the milestone chart.

ISSUE IV.

ENSURE RESOURCES AND FUNDING FOR THE WASHINGTON COURTS

The issue of adequate resources for the states' trial courts has long been at the forefront of the judicial branch agenda. Nearly every task force and commission in the past 30 years examining the work of the courts has addressed court funding. These task force and commission reports have been fairly consistent in identifying the nature of the problem and of the solutions. As partial solutions are enacted, new problems emerge making trial court funding an issue that will require constant and vigilant effort to improve funding and safeguard adequate funding once it is secured.

GOAL 4.1

DEFINE THE RESOURCES THE COURTS ARE CURRENTLY UTILIZING

COMMENTARY: The courts currently have no ability to readily and accurately account for and describe local government expenditures in support of Washington's trial courts in general or for discrete functions. Efforts to define and secure adequate resources can only succeed when compared and contrasted to a current base.

Objective:

Provide a mechanism that will precisely account for local government trial court expenditures.

Task:

1. The BJA will create an ad hoc committee including judges, court administrators, and local government finance officers, to determine the feasibility of creating a new and discrete trial court accounting and reporting process.

GOAL 4.2

DEFINE THE RESOURCES NECESSARY TO OPERATE THE COURTS EFFECTIVELY

COMMENTARY: With the exception of the objective workload analysis methodology employed to estimate judicial officer need, staffing, program, and other funding standards do not exist for trial court budgeting in Washington State. With few exceptions (criminal indigent defense attorney caseload standards, probation caseload standards), national standards do not exist for courts. In order to make the case for adequate funding of the Washington courts, reasoned and accepted staffing, program, and other funding standards must be developed.

Objective:

Create a methodology to define standards which will determine trial court program and expense levels.

Task:

1. AOC will determine the feasibility of defining funding standards related to trial court programs and expenses.

GOAL 4.3

SECURE ADEQUATE, STABLE AND LONG TERM FUNDING FOR THE WASHINGTON COURTS

COMMENTARY: Equal and timely access to justice is dependent on adequate, stable funding of the courts and is essential to the public's trust and confidence in the judicial branch of government. If justice is to be equitably administered and services are to be consistently provided statewide, the functioning of the courts cannot rise and fall with the peaks and valleys of a local economy.

Objective:

Secure a stable and adequate funding stream for the Washington courts.

Task:

1. The BJA has created a Court Funding Implementation Committee to implement fully the recommendations of the Trial Court Funding Task Force contained in its report, Justice in Jeopardy, released on December 15, 2004 including:
 - Shifting a fair share of those trial court expenses to the state that are mandated by statute or by the state's constitution: judges' salaries at all levels of court, language interpreters, juror costs, witness fees, juvenile dependency representation,

juvenile dependency services, juvenile dependency guardians ad litem, creating the mandatory record of proceedings, mandatory arbitration and indigent criminal defense. To help cover the additional cost to the state, supporting legislation to create new and increased user fees and providing for an annual adjustment to court fees

- Increasing the overall funding of the trial courts to enable courts to meet their constitutional and statutory responsibilities. Supporting legislation creating new general fund resources if the legislature deems it necessary to fund additional state expenses identified above and to ensure adequate trial court funding.
- Creating local court improvement accounts to ensure that a portion of the benefit from the shift of responsibility from county to state government inures to the benefit of the courts.
- Conducting an analysis of the PSEA account to provide for more effective collection and division of court penalties and legislative assessments.

2. The BJA will continue to build upon the Justice in Jeopardy implementation strategy initiated in the 2005 legislative. In 2005, the legislative strategy included the introduction of legislation to increase trial court filing fees combined with requests for state funding of selected expenditures that were identified by the Court Funding Task Force as appropriate responsibilities for the state to assume. The primary expenditures targeted for increased state support in 2005 included criminal indigent defense, parental representation in dependency actions, expansion of civil equal justice, and trial court operations (district court judicial salaries and elected municipal court judicial salaries, and juror reimbursement). A key component in the partial shift of responsibility to the state for trial court operations was the creation of trial court improvement accounts dedicating half of the savings realized by local government to fund improvements to local courts' staffing, programs, facilities, or services.

3. The BJA will explore funding mechanisms which allow for funding incremental impacts which result from legislation. The fiscal impact of legislation is spread statewide resulting in incremental workload increases to individual courts which cannot be practically funded or staffed. Notwithstanding, the cumulative effect of legislation on court workloads is substantial. Therefore, a funding mechanism is necessary which translates the incremental workload increases into rational funding distributions and judicial officer and court staff increases.

ISSUE V.
ENHANCE THE ADMINISTRATION OF JUSTICE

At a time when funding is becoming increasingly limited for core court functions, courts must continue to review their performance and procedures to maximize the use of dwindling resources. Ongoing development of best practices ensures both efficient court processes and acceptable levels of service to court users.

GOAL 5.1
PROMOTE EFFICIENT AND EFFECTIVE COURT PERFORMANCE

COMMENTARY: In 2000, the BJA established the Best Practices Committee. The Committee's mission is to actively participate in the selection, endorsement, dissemination, and implementation of best practices in court operations and administration. The Committee is committed to a process of continuously developing, assessing and updating those best practices.

Objective:

Identify and disseminate best practices in court operations and administration.

Tasks:

1. The BJA will develop a procedure for prioritizing and referring practices to the Best Practices Committee.
2. The Best Practices Committee will determine best practices for courts that encompass both efficiency and quality of justice.

Objective:

Measure and monitor court performance to ensure the efficient delivery of court services.

Tasks:

4. The Best Practices Committee will assess the feasibility of implementing an automated court performance measurement system to work in conjunction with current case management and other related systems. To do so, the Committee will continue its partnership with Affiliated Computer Systems, Inc. (ACS) to pilot their CourtMetric system in selected Washington courts. The

ACS system is based on the National Trial Court Standards, and will be customized to capture measurements important to the Washington courts.

2.1. The BJA will oversee the development of the criteria and methods by AOC to conduct court performance audits pursuant to GR 32.

GOAL 5.2 IMPROVE THE QUALITY AND CONSISTENCY OF SERVICES OFFERED BY COURTS OF LIMITED JURISDICTION.

COMMENTARY: The Court Funding Task Force recommended that courts of limited jurisdiction should be reorganized into regional courts funded by the state. These regional courts would have jurisdiction over all applicable state laws and county and city ordinances and causes of action as authorized by the legislature. Regional courts would operate full time, have elected judges, and offer predictable, recognized levels of service, including probation. A regional structure for courts of limited jurisdiction will decrease the proliferation of small, limited operation, part-time courts. Ideally, regional courts would offer convenience, consolidated services, staff and administration, and would achieve savings through economies of scale for all participating jurisdictions.

Objective:

Organize courts of limited jurisdiction into convenient, regional courts which consolidate services now provided by multiple smaller courts.

Tasks:

1. In order to move toward the long-term goal of creating regional courts of limited jurisdiction, the BJA will support the update of Title 3 RCW including:
 - Authorizing municipalities and counties to provide joint court services by interlocal agreement.
 - Authorizing cities to contract with other cities to form regional municipal courts with elected judges.
 - Emphasizing a collaborative regional approach to provision of district and municipal court services by expanding the role and membership of the districting committee.

ISSUE VI.

PRESERVE THE INDEPENDENCE OF THE JUDICIARY

There are two categories of judicial independence: decisional and institutional. Decisional independence pertains to a judge's ability to render decisions based solely on the facts of the case and the applicable law, free from political or popular influence. Institutional independence involves the administrative separation of the judicial branch from the executive and legislative branches of government.

As the courts apply laws that implement public policy, their decisions may appear to be, or actually be at odds with the interests of the legislative or executive branches of government or with public opinion. However, it is precisely this independence that is indispensable if there is to be public confidence in the administration of justice.

GOAL 6.1
PROMOTE DECISIONAL INDEPENDENCE SO THAT JUDGES MAY ADMINISTER JUSTICE ACCORDING TO LAW WITHOUT FEAR OR FAVOR.

COMMENTARY: One means of attaining decisional independence is to require that all judges be elected. While no system of judicial selection guarantees perfection, election insures that judges are directly accountable to the citizens, not to an appointing government official.

Objective:

Ensure that judges have the freedom to render decisions without political or public influence.

Tasks:

1. The BJA will continue to work toward the goal that all judges, including part-time judges in courts of limited jurisdiction, stand for election.
2. To differentiate their responsibilities from those of elected judges, the BJA will support limiting the authority of district and municipal court commissioners.
3. The BJA will examine issues related to contribution levels for judicial campaigns.

GOAL 6.2

PROMOTE THE INSTITUTIONAL INDEPENDENCE OF THE JUDICIAL BRANCH IN A WAY THAT WILL FOSTER MUTUAL RESPECT AND COOPERATION AMONG THE BRANCHES OF GOVERNMENT.

COMMENTARY: The Court Independence Response Team (CIRT), a Committee of the BJA, was commissioned by the BJA to be both pro-active and reactive to separation of powers and other court-related issues in the Washington State courts. The committee consists of representatives of cities, counties, city attorneys, the ACLU, the Attorney General's office, and others.

Objective:

Provide a forum for discussion and resolution of issues that arise between the court and the local executive or legislative authority.

Task:

1. CIRT will continue to monitor local government's adherence to GR 29 (the Presiding Judge Rule), and to educate the courts and local governments regarding separation of powers issues.

ISSUE VII.

PROMOTE PUBLIC TRUST AND CONFIDENCE IN THE JUDICIARY

The BJA established the Committee on Public Trust and Confidence in 1999 to identify and implement initiatives to enhance public trust and confidence in the State's judicial branch of government.

The Committee strives to ensure that individuals who have contact with the judicial branch of government are treated with respect and equality, as well as to foster a greater understanding of and respect for the judicial branch of government. In 2004, the Committee identified the following goals and projects to achieve a higher level of trust and confidence.

GOAL 7.1

IMPROVE ACCESS TO COURTS STATEWIDE

COMMENTARY: Improving access to courts is seen as a critical first step in improving the public's level of confidence in their court system. Too often, those who visit the courthouse experience both fear and confusion as they try to navigate a complicated legal system on their own. Simple changes in courts statewide will help make a difference in their courtroom experience.

Objective:

Facilitate changes in courthouses throughout Washington State to ensure that individuals who have contact with the judicial branch of government are treated with respect and equality.

Tasks:

1. The Committee is undertaking two activities to improve access to Washington Courts:
 - Creation of a statewide curriculum for a volunteer docent program.
 - A pilot project identifying 'key confidence interaction points' in courts throughout Washington State.
2. The Committee will work with the civil equal justice community to facilitate the adoption of their recommendations.

GOAL 7.2

IMPROVE THE PUBLIC'S AND THE MEDIA'S UNDERSTANDING OF THE COURT SYSTEM

COMMENTARY: To improve the level of confidence in the court system, it is imperative that the public understand how the judicial branch operates and what a vital role an independent judiciary plays in a democratic society. To achieve this level of understanding, the Committee must also focus its efforts on educating the media, so that reporting on court-related matters is accurate and informative.

Objective:

Increase the media's level of knowledge of how the judicial branch of government operates; increase the level of public outreach by judges throughout Washington State; and increase the amount of information given to citizens who serve as jurors each day.

Tasks:

1. The Committee will develop a local court media outreach how-to kit for all presiding judges, including items such as template annual reports, press releases, guest editorials, and media pamphlets.
2. The Committee will create a curriculum for a "Courts 101" workshop for the media and a companion comprehensive media guide.
3. The Committee will undertake efforts to increase appreciation of jurors, and their understanding of their rights and responsibilities.



WASHINGTON STATE
ASSOCIATION OF
COUNTY CLERKS

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**WSACC Joint Meeting with BJA
Friday July 18, 2008**

1. Proposed Legislation for 2009

- a. Proposal for BJA Consideration regarding On-Line Jury Summons Response Signature (see attached memo)
- b. Request to Increase Legal Financial Obligation Budget from the State. This request has been approved by the Supreme Court for inclusion in the Supreme Court's budget request for the upcoming cycle. The Clerks are asking for an additional \$450,000 annually to be divided among the 39 clerks. Since ESSB 5990 was adopted in 2003 and the County Clerks took over collections, the number of sentences entered statewide has increased by 13%, the cost of salaries and benefits has increased by at least 10%, postage has increased by 11%, and the number of defendants transferred from DOC responsibility to WSACC responsibility has dramatically increased. Since 2003, total LFO collections have increased 26%.
- c. WSACC Proposals
WSACC is considering a Clerks' fee bill, which may add new fees and increase some others; an LFO bill related to duties and authorities; and a Clerk's Duties Clean-Up bill. Clerks work with the Washington Association of County Officials (WACO) for lobbying support. Clerks' priorities are due to WACO by Sept 1.

2. Proposed GR 34/Waiver of Fees

- a. Update on Work with SCJA and ATJ for new version

3. ELC 7.1(b): An issue for Clerks at all trial court levels

Current Language:

ELC 7.1
INTERIM SUSPENSION FOR CONVICTION OF A CRIME

...
(b) Court Clerk To Advise Association of Conviction. When a lawyer is convicted of a crime, the clerk of the court must advise the Association of the conviction, and on request provide the Association with certified copies of any order or other document showing the conviction.

A proposal being discussed by the Clerk's Association and Chief Disciplinary Counsel is to amend the rule and impose a self-reporting requirement on the convicted lawyer, possibly coupled with another rule stating that a prosecuting attorney or judge who is aware of a criminal conviction involving a lawyer should report the information to the Bar Association.

The WSBA Board of Governors is about to charter a Task Force to work on amendments to the ELC, and WSACC will propose that this be on the agenda.

April 25, 2008

TO: Justice Mary Fairhurst
Judicial Information Systems Committee

FROM: Siri Woods, Clerk
Chelan County Superior Court

RE: Electronic Transmission of Juror Questionnaires

Several County Clerks have the ability to have jurors complete their jury questionnaire online via a secure site. Unfortunately, present Washington law requires a signature. RCW 2.36.072 in part provides that "each court shall establish a means to preliminarily determine by a **written declaration signed under penalty of perjury by the person** summoned." Because of this statutory requirement, a signature needs to be secured in writing.

We may need a statutory amendment to make electronic transmission of juror questionnaires process possible as GR 30 is case filing specific. All of the new jury management programs allow jurors to go on-line and fill in their jury questionnaire and return it to the court. This will save the courts postage and management time as juror questionnaire data can just fill in our system rather than requiring data entry at the courthouse. Of course, we still allow people to return them by mail if they choose and the clerks will enter the data. The electronic process will be helpful in the future to gain statistical information on response, continuance rates and reasons for excuses or postponements or special assignment.

I would recommend that the JISC support the Washington State Clerks Association in drafting legislation that adds language to RCW 2.36.072 set forth in the underlined language below:

(1) Each court shall establish a means to preliminarily determine by a written or electronic declaration signed under penalty of perjury by the person summoned, the qualifications set forth in RCW 2.36.070 of each person summoned for jury duty prior to their appearance at the court to which they are summoned to serve.

(2) An electronic signature may be used in lieu of a written signature.

(3) "Electronic signature" is defined as means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(4) Upon receipt by the summoning court of a written declaration stating that a declarant does not meet the qualifications set forth in RCW 2.36.070, that declarant shall be excused from appearing in response to the summons. If a person summoned to appear for jury duty fails to sign and return a declaration of his or her qualifications to serve as a juror prior to appearing in response to a summons and is later determined to be unqualified for one of the reasons set forth in RCW 2.36.070, that person shall not be entitled to any compensation as provided in RCW 2.36.150. Information provided to the court for preliminary determination of statutory qualification for jury duty may only be used for the term such person is summoned and may not be used for any other purpose, except that the court, or designee, may report a change of address or nondelivery of summons of persons summoned for jury duty to the county auditor.

Council of State Governments FAQ's

Q: What is the mission of CSG?

A: The Council of State Governments is the premier multibranch organization forecasting policy trends for the community of states, commonwealths and territories on a national and regional basis.

CSG alerts state elected and appointed officials to emerging social, economic and political trends; offers innovative state policy responses to rapidly changing conditions; and advocates multistate problem-solving to maximize resources and competitiveness.

CSG promotes excellence in decision-making and leadership skills and champions state sovereignty.

Q: Whom does CSG serve?

A: Founded in 1933, CSG serves the executive, judicial and legislative branches of state government through leadership education, research and information services.

Q: Where is CSG headquarters?

A: CSG's national headquarters is in Lexington, Ky. The address is 2760 Research Park Drive, P.O. Box 11910, Lexington, Ky 40578-1910. The phone number is (859) 244-8000 and the fax number is (859) 244-8001.

Q: Does CSG have any other offices?

A: Yes. The Council's unique structure features four regional offices that focus on the needs, special concerns and opportunities of the Eastern, Midwestern, Western and Southern states. In addition, the Council maintains an office in Washington, D.C, to monitor activities in the federal government and their impact on state issues and programs.

Q: Is CSG affiliated with any party?

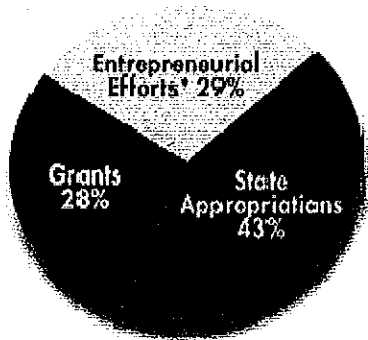
A: No. CSG is a nonpartisan, nonprofit organization that seeks to foster excellence in state government.

Q: When was CSG created?

A: In the 1930s, Colorado Sen. Henry Toll devised a plan for a national association to serve state leaders and their institutions. CSG continues to provide state officials with the tools and strategies they need to implement effective policy and programs. The Council serves as a catalyst for state leadership, building new partnerships within government and among governing entities, promoting multi-state and regional cooperative ventures, and establishing vital links with the private sector and other civic leaders.

Q: How is CSG funded?

A:



*Entrepreneurial Efforts include:
Publication Sales, Conference Revenue,
CSG Associates, Contributions and
Investment Income.



Government leaders from around the country recently gathered at the Radisson Hotel Bismarck to tackle state interbranch relations: the challenges, opportunities and responsibilities.

This first-ever summit for all state officials focused on bridging the communication gaps that exist among our various branches and agencies and sought to identify opportunities to improve interbranch cooperation for the betterment of all citizens.

Sessions Included:

- The Separation of Powers and U.S. Constitutional Foundations
- Panel Discussion - The Interbranch Impacts of Administrative Regulations and Executive Orders
- Facilitated Discussion - Recasting the Interbranch Relationship: Opportunities for Cooperation
- Panel Discussion: Interbranch Cooperation in Alabama: A Case Study

For more information, please contact
Jennifer Boyter at (859) 244-8198 or jboyter@csg.org.



Final Agenda

Sunday, June 22:

6:30 p.m. to 8:30 p.m. **Chairman's "Welcome to North Dakota" Reception**
North Dakota Heritage Center. Tours of the State Capitol are available.

Monday, June 23:

7:30 a.m. **Breakfast and Networking Roundtables**

8:30 a.m. **Welcome and Opening Remarks**
Representative Kim Koppelman, North Dakota, CSG Chairman
Governor John Hoeven, North Dakota

9:00 a.m. **The Separation of Powers and U.S. Constitutional Foundations**
Thad Beyle, Professor of Political Science
University of North Carolina at Chapel Hill

10:15 a.m. **Obstacles to Interbranch Cooperation**
Secretary Michael Festa, Executive Office of Elder Affairs,
Massachusetts
Senator Kevin Coughlin, Ohio

11:30 a.m. **Luncheon: Salary and Recruitment of State Officials**
Mary McQueen, President, National Center for State Courts

1:00 p.m. **Interbranch Cooperation in Alabama: A Case Study**
Chief Justice Sue Bell Cobb, Alabama
Lieutenant Governor Jim Folsom, Alabama
House Speaker Seth Hammett, Alabama
Commissioner Richard Allen, Alabama Department of Corrections

2:45 p.m. **Economic Development and the Interbranch Relationship:
Opportunities for Cooperative Promotion**

Paul Lucy, Director, Economic Development & Finance Division
North Dakota Department of Commerce
Senator Ann Rest, Minnesota

4:00 p.m. **Roundtable Discussion: Interbranch Ethics and Relationship
Building**

Chief Justice Gerald W. VandeWalle, North Dakota
Representative Laura Brod, Minnesota
State Treasurer Kelly Schmidt, North Dakota

6:30 p.m. – 9:30 p.m. **Dinner Event: Fort Abraham Lincoln**

Includes tours of the home of General George Custer and earth lodges at the On-A-Slant Indian Village and period re-enactments by the 17th Infantry.

Tuesday, June 24:

7:30 a.m. Breakfast and Networking Roundtables

8:30 a.m. **A Statute's Journey through the Branches**
Judge Russell Carparelli, Colorado Court of Appeals
Senator Bart Davis, Idaho

10:15 a.m. **Discussion: Interbranch Solutions from the States**
Secretary of State Pedro Cortés, Pennsylvania
Judge Robert Hunter, North Carolina Court of Appeals
Representative Kim Koppelman, North Dakota

11:45 a.m. **Luncheon:**
Attorney General John W. Suthers, Colorado

1:15 p.m. **Recasting the Interbranch Relationship:
Opportunities for Enhanced Cooperation**

3:15 p.m. **Wrap-up and Next Steps**

6:30 p.m. **Dinner Event: Private Rodeo and BBQ at Neuen's Ranch**

SEPARATE POWERS—SHARED RESPONSIBILITY:[†] CONSTRUCTING AVENUES OF INTERBRANCH COMMUNICATION

RUSSELL CARPARELLI^{††}

INTRODUCTION

In The Federalist No. 78, Alexander Hamilton wrote that the courts must exercise judgment to effect the constitutional intentions of the legislature and must not exercise will to substitute their preferences for those of the legislative body.¹ Since Hamilton first expressed this principle, scholars and jurists have written countless books, articles, and opinions about the separation of powers and how courts should go about exercising their judgment to effect legislative intent. Less has been written about how legislatures and courts can work together to the same end. This article calls for increased efforts to re-evaluate and re-vitalize existing avenues of communication between the legislature and courts in Colorado and other states, and to develop new ones, both formal and informal, to increase the effectiveness and efficiency of state governments.

I. THE NEED FOR INTERBRANCH COMMUNICATION

The Colorado Constitution prohibits any person or persons charged with the exercise of powers properly belonging to one governmental branch from exercising any power properly belonging to either of the others.² However, as Benjamin Cardozo wrote, it is not necessary that the “[l]egislature and courts move on in proud and silent isolation.”³ Not only is such isolation unnecessary, but, as Robert A. Katzmann has noted, governance “is premised on each institution’s respect for and knowledge of the others and on a continuing dialogue that produces shared understanding and comity.”⁴ The three branches of government cannot govern without understanding and respecting the others’ powers,

[†] “Separate Powers—Shared Responsibility” was derived from remarks by Joseph R. Quinn, Chief Justice of the Colorado Supreme Court, in 1989. *See infra* note 17.

^{††} Judge, Colorado Court of Appeals. I thank my summer intern Matt Dardenne for his research, communication and coordination with other government entities, and drafting; and the Court of Appeals editor Wendy Busch for contributing her extraordinary editing skill.

1. THE FEDERALIST NO. 78 (Alexander Hamilton).

2. COLO. CONST. art. III.

3. Benjamin Cardozo, *A Ministry of Justice*, 35 HARV. L. REV. 113, 114 (1921).

4. ROBERT A. KATZMANN, COURTS AND CONGRESS 1 (1997).

constraints, and methods.⁵ The premise here is that effective formal and informal interbranch communication helps each branch better understand the workings of others, promotes respect for the separation of powers, can help manage the tensions inherent in our checks and balances system, and improves government.⁶

The factors that tend to discourage communications between courts and legislatures have been thoroughly described by Katzmann, Shirley Abrahamson, Deanell Reece Tacha, and others, and need not be repeated here.⁷ However, the need to construct additional avenues of interbranch communication remains and has been increased by recent legislative challenges, efforts to modify statutes through litigation, the accelerated transmission of information, and political rancor.

A. Challenges of Governing

State governments continue to face challenges that include population growth, changing demographics, security concerns, persistent and emerging public health issues, infrastructure demands, budget limitations, the need for economic growth, and public debate regarding fundamental values. In many states, legislative term limits cap the experience level of legislative bodies, yet legislators must effectively address the concerns of their constituents and of the general public. Because term limits increase the turnover rate in the legislature, "institutional memory" is shorter, and programs to provide legislators with necessary information must be repeated more frequently and more efficiently. Tight budgets reduce legislative staff resources and increase the need to rely on private resources that can be accessed by lobbyists.

B. Litigation

When legislatures draft statutes, to what extent do they endeavor to limit or leave open the potential for litigation by the same special interests that were involved in the legislative drafting process? Although legislatures and the judiciary are aware of the effects of the adversarial process and communicate about possible substantive and procedural reforms, legislative discontent with the courts might be assuaged by

5. Peter M. Shane, *Policy at the Intersection of Law and Politics: Panel One: When Inter-Branch Norms Break Down: Of Arms-For-Hostages, "Orderly Shutdowns," Presidential Impeachments, and Judicial "Coups,"* 12 CORNELL J.L. & PUB. POL'Y 503, 506-08 (2003).

6. Robert A. Katzmann, *The Underlying Concerns*, in JUDGES AND LEGISLATORS: TOWARD INSTITUTIONAL COMITY 10 (Robert A. Katzmann ed., 1988).

7. See Shirley S. Abrahamson, *Remarks of the Hon. Shirley S. Abrahamson Before the American Bar Association Commission on Separation of Powers and Judicial Independence*, 12 ST. JOHN'S J. LEGAL COMMENT. 69, 80-91 (1996); Shirley S. Abrahamson & Robert L. Hughes, *Shall We Dance? Steps for Legislators and Judges in Statutory Interpretation*, 75 MINN. L. REV. 1045, 1046-47 (1991); Katzmann, *supra* note 4, at 4-7; Robert A. Katzmann, *Bridging the Statutory Gulf Between Courts and Congress: A Challenge of Positive Political Theory*, 80 GEO. L.J. 653, 655-56 (1992); Deanell Reece Tacha, *Judges and Legislators: Renewing the Relationship*, 52 OHIO ST. L.J. 279, 281 (1991).

broad recognition that the general public, corporations, and organized advocacy groups often continue their efforts to obtain laws favorable to them by filing lawsuits that seek to narrow or broaden the statutes' scope. Thus, like lobbyists, litigants and their advocates are active participants in the lawmaking process.⁸

And, although legislators are aware that, regardless of litigants' goals, the courts will interpret and apply the laws they draft, how many know or are attentive to the canons the courts will use to interpret those laws?⁹ As Professor Kagan has observed, after losing in the courts, some litigants again lobby legislatures to revisit the statutes to undo the courts' interpretations.¹⁰ After the legislature revises a statute, the policy debate can again return to the courts.

C. Information Highway

Although state legislatures have faced demanding challenges throughout American history, since the creation of the World Wide Web in 1991 and the proliferation of dial-up and high speed Internet service since 1995,¹¹ our governments face these challenges in the fastest communications environment in history and, in turn, under increased public scrutiny and involvement. The decisions and actions of all branches of government are disseminated at lightning speed and are swiftly analyzed and debated in the traditional media and rapidly growing cyber-media.¹²

D. Political Rancor

There are, have always been, and always will be, groups, citizens, and legislators who believe court decisions are frequently based on political views, rather than legal principles. Recent criticism of controversial court decisions has been vociferous.¹³ Reflecting anger, distrust, and

8. ROBERT A. KAGAN, MAKING POLICY, MAKING LAW: AN INTERBRANCH PERSPECTIVE 14 (Jeb Barnes & Mark C. Miller, eds., 2004).

9. Richard A. Posner, *Statutory Interpretation—In the Classroom and in the Courtroom*, 50 U. CHI. L. REV. 800, 806 (1983). Posner has also observed that:

[T]he [basic] reason why statutes are so frequently ambiguous in application is not that they are poorly drafted—though many are—and not that the legislators failed to agree on just what they wanted to accomplish in the statute—though often they do fail—but that a statute necessarily is drafted in advance of, and with imperfect appreciation for the problems that will be encountered in, its application.

Id. at 811.

10. KAGAN, *supra* note 8, at 14.

11. Robert Hobbes Zakon, Hobbes' Internet Timeline v8.2 (2006), <http://www.zakon.org/robert/internet/timeline/#1990s>.

12. At the same time, public confidence in the United States Congress and the United States Supreme Court has fallen dramatically. Frank Newport, *Americans' Confidence in Congress at All-Time Low*, THE GALLUP POLL, June 21, 2007, available at <http://www.galluppoll.com/content/?ci=27946> (Americans with a "great deal" or "quite a lot" of confidence in Congress at 14%, down from 22% in 1997 and one of the lowest ratings for any institution tested in 30 years; ratings for the U.S. Supreme Court were 34%, down from 50% in 1997; for the President 25%, down from 52% in 2004).

13. In April 2005, U.S. House Majority Leader Tom DeLay of Texas caused the U.S. Congress and federal courts to become involved in the case of Terri Schiavo. After the federal courts

misunderstanding of the judicial process, rhetoric of this sort tends to increase the politicization of the judicial system, rather than reduce it. It also promotes public disrespect for the rule of law and a co-equal branch of government. That is not to say that courts do not err, or that decisions should not be subject to public debate. Rather, it is to say that the vehemence of current debate regarding the role of the courts increases the need for legislatures and courts to build more avenues of communication and to ensure that they are well used.

In this environment, the public would not be well served by three branches of government moving in proud isolation. To the contrary, our rapidly changing, rapidly communicating world makes interbranch communication more necessary than ever before. Each member of each branch needs to have a sound understanding of how the others function and are evolving in response to new challenges and new perspectives within their branches and in the electorate. Although courts regularly interpret and apply the laws passed by legislatures, do judges know enough about the formal and informal political dynamics of legislative processes?¹⁴

II. "SEEKING A NEW PARTNERSHIP," CONFERENCES AND A GUIDEBOOK

In 1989, seven organizations sponsored a national conference in Denver, Colorado, entitled "Legislative-Judicial Relationships: Seeking a New Partnership."¹⁵ The conference sought to provide a foundation for more substantial working relationships between state legislatures and the courts. The Honorable Robert F. Stephens, Chief Justice of the Kentucky Supreme Court, commented that the conference was a historic first attempt to discuss openly and candidly the problem that exists between the two branches of government, and that it was an opportunity to create mutual understanding of the problems and attitudes underlying inter-

declined to exceed their jurisdiction and a special grant of authority from Congress, DeLay said, "The time will come for the men responsible for this to answer for their behavior," and noted that he wanted to "look at an arrogant, out-of-control, unaccountable judiciary that thumbed their nose at Congress and the president." Mike Allen, *DeLay Wants Panel to Review Role of Courts: Democrats Criticize His Attack on Judges*, WASH. POST, Apr. 2, 2005, at A09. That same month, Senator John Cornyn spoke to a nearly empty chamber, criticized a Supreme Court ruling on the death penalty, and said that he wondered whether political decisions by the courts without accountability to the public had resulted in violence against judges. Charles Babington, *Senator Links Violence to "Political" Decisions*, WASH. POST, Apr. 5, 2005, at A07.

14. Posner, *supra* note 9, at 809.

15. The conference was held in Denver, Colorado, on October 1-3, 1989, and was sponsored by the National Center for State Courts, the National Conference of State Legislatures, the Conference of Chief Justices, the Conference of State Court Administrators, the Council of State Governments, and the American Bar Association Judicial Administration Division—Lawyer's Conference. See NANCY C. MARON, LINDA K. RIDGE, JOHN MARTIN & CAROL FRIESEN, *LEGISLATIVE-JUDICIAL RELATIONS: "SEEKING A NEW PARTNERSHIP."* CONFERENCE SUMMARY REPORT (1989), available at http://www.ncsconline.org/WC/Publications/KIS_IntRelConferenceSum.pdf [hereinafter MARON, CONFERENCE REPORT].

branch friction and to help both branches work together effectively to better serve the public, "which we all serve."¹⁶

Given the location of the 1989 conference, it is no surprise that Colorado's legislative, judicial, and legal education communities were well represented.¹⁷ Chief Justice Joseph R. Quinn and Colorado Senate President Ted Strickland made welcoming remarks. Chief Justice Quinn stressed that the separation of powers should be viewed as "shared responsibility."¹⁸ Participants were encouraged "to think less in terms of 'separation' and 'power' and more in terms of common goals and communications."¹⁹ Chief Justice Quinn commented that because the courts' interpretation of statutes is based on the words in the statute, it is important that the legislature express its intent as clearly as possible.²⁰ Edward A. Dauer, a professor at University of Denver College of Law, sounded a similar theme when he said that "despite, or maybe because of, [the] principle of separation of powers, there are numerous needs and opportunities for the legislative and judicial branches nonetheless to interact," but that "in all those interactions, the two branches do not always fully appreciate the constraints, limits, incentives, motivations, and attributes of the other branch."²¹

Among the eight recommendations that emerged from the conference was a recommendation to hold regional and state conferences, similar in format to the national one, to focus on the relationships between individual state legislatures and courts.²²

In 1991, regional conferences were conducted in Helena, Montana,²³ and Boston, Massachusetts.²⁴ The project staff conducted follow-

16. LINDA K. RIDGE, DONNA HUNZEKER, ANTOINETTE BONNACI-MILLER & MARY FAIRCHILD, LEGISLATIVE-JUDICIAL RELATIONS: "SEEKING A NEW PARTNERSHIP: A GUIDEBOOK FOR LEGISLATIVE-JUDICIAL RELATIONS 8 (1992), available at http://www.ncsconline.org/WC/Publications/KIS_IntRelPartnership.pdf [hereinafter RIDGE, GUIDEBOOK].

17. State Senator Dottie Wham and University of Denver College of Law Professor Robert B. Yegge were on the advisory planning committee. MARON, CONFERENCE REPORT, *supra* note 15, at app. C. The faculty included Professor Edward A. Dauer of the University of Denver College of Law; Honorable Jean E. Dubofsky, former associate justice of the Supreme Court of Colorado; Honorable Richard D. Lamm, Director of the University of Denver Center for Pub. Policy and Contemporary Issues; and former Governor of Colorado; Gene Murrett, Circuit Executive for the Tenth Circuit Court of Appeals; Honorable Joseph R. Quinn, Chief Justice of the Supreme Court of Colorado; and Honorable Ted Strickland, President of the Colorado State Senate. *Id.* Attendees included State Representative Marleen Fish and Chief Judge Aurel M. Kelly of the Colorado Court of Appeals. *Id.*

18. MARON, CONFERENCE REPORT, *supra* note 15, at 14.

19. *Id.*

20. *Id.* at 38.

21. RIDGE, GUIDEBOOK, *supra* note 16, at 1-2.

22. MARON, CONFERENCE REPORT, *supra* note 15, at 21-22.

23. RIDGE, GUIDEBOOK, *supra* note 16, at 33. Participants were from Montana, North Dakota, South Dakota, Wyoming, and Idaho. *Id.*

24. *Id.* Participants were from Connecticut, Indiana, Kentucky, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont. *Id.*

up interviews of regional conference participants and reported that participants frequently mentioned "the need to spread knowledge and understanding of the issues critical to interbranch relations 'through the ranks.'"²⁵ According to the conference report, "[t]here was considerable disagreement between legislators and judicial officials about how much communication exist[ed] between the branches [at that time], and what the inducements and impediments to more effective communication might be."²⁶

And in 1992, Linda K. Ridge, with others at the National Center for State Courts, prepared "A Guidebook for Legislative-Judicial Relations," which, among other things, provides guidance about how to organize a conference on legislative-judicial relations.²⁷

III. WISCONSIN'S COMMISSION ON THE JUDICIARY AS A CO-EQUAL BRANCH

In 1995, Wisconsin State Bar President David Saichek created a Commission on the Judiciary as a Co-Equal Branch of Government.²⁸ The commission sought to address, among other questions, whether the judicial branch was working well with the other two branches of government.²⁹ The commission was divided into five committees, one of which addressed interbranch relations.³⁰

The commission reported concerns about the relationship among the three branches, including "the need for better understanding by members of the executive and legislative branches of what the courts can and cannot do, as well as what must be done to help the judiciary function more effectively."³¹ It also reported concerns that the judiciary needed to be more assertive in understanding the process of legislating.³² The commission recognized that the legislative and executive branches can be influenced by misconceptions among the public about the judicial branch, and that education about the judiciary's role and independence is vital to all branches.³³ In my view, however, there is an even greater danger that members of the legislative and executive branches who lack accurate understanding about the courts can, and do, negatively influence public confidence in their government and, in particular, in the fairness and impartiality of our courts.

25. RIDGE, GUIDEBOOK, *supra* note 16, at 34.

26. MARON, CONFERENCE REPORT, *supra* note 15, at 7.

27. See generally RIDGE, GUIDEBOOK, *supra* note 16.

28. COMMISSION ON THE JUDICIARY AS A CO-EQUAL BRANCH OF GOVERNMENT, STATE BAR OF WISCONSIN, FINAL REPORT AND RECOMMENDATIONS 12 (1997), available at http://www.wisbar.org/AM/Template.cfm?Section=Research_and_Reports&Template=/CM/ContentDisplay.cfm&ContentID=17447 [hereinafter COMMISSION ON THE JUDICIARY].

29. *Id.*

30. *Id.* at 13.

31. *Id.* at 21.

32. *Id.*

33. *Id.*

IV. AVENUES OF COMMUNICATION IN COLORADO

In October 1990, the State Justice Institute awarded a grant³⁴ and the Colorado General Assembly appropriated funds to the Colorado Judicial Branch to conduct Project Vision 2020: Colorado Courts of the Future.³⁵ Eighty Coloradans spent more than a year considering various issues, including the relationship between the courts, the General Assembly, and the executive branch.³⁶

One Project Vision 2020 task force that considered the structure of the state courts included professors, state representatives, state senators, judges, and court administrators.³⁷ The task force envisioned better relationships between the General Assembly and the courts, and also recommended inviting the executive branch into discussions.³⁸ It called for the creation of an Interbranch Commission consisting of the Governor (or a designee or alternate), the Chief of Staff of the Governor, the majority and minority leaders of the state senate and house, the Chief Justice (or a designee or alternate), the State Court Administrator, one private citizen appointed by each of the three branches, and two private citizens to be chosen by the three appointed citizens members.³⁹ One of the five appointed private citizens would be elected by the entire commission to serve as Chair.⁴⁰ The task force envisioned that the commission could be established by constitutional amendment, statutory action, voluntary action by each branch, or another informal, voluntary method.⁴¹

The task force acknowledged that the principles of separation of powers and checks and balances must continue, and emphasized that the purpose of “an Interbranch Commission would not be to reduce the independence, autonomy, and customary responsibilities of each of the branches of government.”⁴² The task force concluded that the state should follow the principle that the three branches are “separate but not separated.”⁴³ However, such a commission does not currently exist.

Since then there have been other task forces and formal avenues of communication. The General Assembly has a tradition of inviting the

34. STEERING COMMITTEE, PROJECT VISION 2020: COLORADO COURTS OF THE FUTURE, REPORT TO THE COLORADO SUPREME COURT 1 (1992) [hereinafter VISION 2020]. The grant was awarded shortly after Chief Justice Joseph R. Quinn stepped down as Chief Justice (though he remained an associate justice until 1993) and Chief Justice Luis Rovira assumed those duties.

35. *Id.*

36. Letter from Laurence W. DeMuth, Jr., Chair of Steering Committee, Vision 2020: Colorado Courts of the Future, to Hon. Luis D. Rovira, Chief Justice, Colorado Supreme Court (Mar. 25, 1992) (on file with Westminster Law Library, University of Denver Sturm College of Law).

37. VISION 2020, *supra* note 34, at 62.

38. *Id.* at 77.

39. *Id.* at 79-80.

40. *Id.* at 80.

41. *Id.*

42. *Id.* at 78 (emphasis in original).

43. *Id.* at 79 (quotation omitted).

Chief Justice to address the Assembly regarding the state of the judiciary at the beginning of each legislative session.⁴⁴ These addresses typically include information about the structure of the judicial branch, caseloads of its several components, the challenges it faces and anticipates, the initiatives it has undertaken, and legislation it intends to request.⁴⁵ The Office of the State Court Administrator maintains communication with the General Assembly throughout the year, especially with regard to the administration of the courts and proposed legislation.⁴⁶

In 2001, the courts, the legislature, and the executive branch participated in the Governor's Task Force on Civil Justice Reform,⁴⁷ which resulted in legislation that added twenty-four new district court judge-ships.⁴⁸

From 2005 to 2007, at least two legislators participated in the Respondent Parents' Counsel Task Force Colorado, which Chief Justice Mary Mullarkey created. The task force reviewed issues facing respondent parents' counsel, and made recommendations to the Supreme Court and the Colorado General Assembly.⁴⁹

In 2006, a legislative audit report was highly critical of fees charged by guardians and conservators.⁵⁰ As a result of the report, the Chief Justice established the Protective Proceedings Task Force, and charged it with the task of establishing effective procedures and controls for administering and monitoring conservatorships.⁵¹ The task force issued a draft report in September 2007.⁵²

In addition to these efforts by the government branches themselves, the Colorado Bar Association has sponsored a half-day program at the beginning of some legislative sessions to provide new legislators with a primer regarding the structure and role of the courts.⁵³ The Colorado

44. See, e.g., Mary Mullarkey, Chief Justice, Colorado Supreme Court, State of the Judiciary Address to the General Assembly of Colorado (Jan. 12, 2007).

45. See *id.* at 1.

46. See Office of State Court Administrator, Colorado Judicial Branch, <http://www.courts.state.co.us/exec/scaoindex.htm>.

47. See GOVERNOR'S TASK FORCE ON CIVIL JUSTICE REFORM, FINAL REPORT (July 2000), available at <http://www.state.co.us/cjrtf/report/report.htm>.

48. See Laird T. Milburn, *CBA President's Message to Members: Citizen's Justice Conference*, 30 Colo. Lawyer 45 (Aug. 2001).

49. RESPONDENT PARENTS' COUNSEL TASK FORCE COLORADO, FINAL REPORT TO THE CHIEF JUSTICE OF THE COLORADO SUPREME COURT 10-35 (2007), available at http://www.courts.state.co.us/supct/committees/courtimprovementdocs/Final_Report_9_24_07.pdf.

50. PROTECTIVE PROCEEDINGS TASK FORCE, REPORT TO CHIEF JUSTICE AND STATE COURT ADMINISTRATOR 4 (2007), available at <http://www.courts.state.co.us/exec/Probate/ReporttoChiefJusticeStateCourtAdministratorFeb282007%20with%20no%20attachments.doc>.

51. *Id.*

52. See PROTECTIVE PROCEEDINGS TASK FORCE, DRAFT REPORT (2007), available at <http://www.courts.state.co.us/exec/Probate/SummaryReportDRAFTSept122007.doc>.

53. Colorado Bar Association, 3d Annual Legislative Symposium: Colorado's Justice System (Oct. 20, 2005). The last program was conducted at the beginning of the legislative session in Janu-

Supreme Court and the Colorado Bar Association have also supported the formation of the Colorado Access to Justice Commission, which develops, coordinates, and implements policy initiatives to expand access to and enhance the quality of justice in civil legal matters for those who encounter barriers in accessing Colorado's civil justice system.⁵⁴ The Access to Justice Commission includes representatives from all three branches of government.⁵⁵

Each of these communications has proved its value. And more can be done, both formally and informally.

V. POSSIBILITIES

The national, regional, and state programs, as well as the authors mentioned earlier, have provided exceptional guidance about ways to increase productive communications among the branches of government. There has been increased communication at the federal and state levels. Colorado has done well. Project Vision 2020, the State of the Judiciary addresses to the General Assembly, the legislative communications work of the Office of the State Court Administrator, and joint task forces have laid a path. Some judicial districts have also found ways to meet with state legislators and local officials.⁵⁶ Yet, more can be done and the citizens will benefit when more is done.

2008 is an election year. In 2009 there will be a new president, a new U.S. Congress, a new Colorado General Assembly, and new legislatures in most states. And 2009 will be the twentieth anniversary of the 1989 "Seeking a New Partnership" national conference. We do not need new conferences to design new avenues of communication; rather, we need national, state, and regional conferences that bring participants together to set in motion activities that will maximize the benefits of existing avenues of communication and to establish those that have already been designed but not yet built. Such conferences could also create interstate collaborations that enable state governments to benefit from the experiences of other states. What follows is a summary of some of the work from earlier conferences.

ary 2005; there was no program at the beginning of the legislative session in 2007. *Id.* The format of the program is educational, but its brevity limits the amount and scope of information that can be presented. In addition, attendance by legislators is voluntary, and, as a result, it is often limited. The program should be resumed and expanded in 2009, and returning incumbent legislators should urge better attendance by all legislators. Attendance by judges other than the speakers would also help to foster continuing informal communication between judges and legislators.

54. See Access to Justice Commission, Colorado Bar Association, <http://www.cobar.org/index.cfm/ID/20129/DPWAJ/Access-to-Justice-Commission/>.

55. *Id.*

56. RIDGE, GUIDEBOOK, *supra* note 16, at 22-24.

A. Education

Our executive, legislative, and judicial officials are all busy carrying out the work of the people. Although the majority of officials come to their positions with significant knowledge, there is no assurance that they know how each branch operates or how the work of each branch relates to that of the others.

As in most efforts to achieve excellence, education and training are essential foundations. And, indeed, all the conferences discussed here have called for more interbranch education.⁵⁷ They have called for educational programs that orient branch officials and staff to the procedures, perspectives, and problems of the other branches.⁵⁸ The public would benefit if judges knew more about the formal and informal political dynamics involved in the initiation, drafting, consideration, and passage of statutes. The public would also benefit if legislators knew more about the courts and how they interpret statutes and constitutions.

Educational efforts could also facilitate formal and informal interbranch communication by including information about the separation of powers, ways to engage in productive communications without undermining the separation of powers, and the political and ethical constraints of officials in the other branches. Joint educational conferences would promote a better understanding about how each branch is approaching new challenges. Practical education could be achieved through "ride-along" programs where judges invite state legislators, as well as local elected and appointed officials, to observe court proceedings, and where state legislators invite judges to observe public meetings with constituents, as well as legislative committee meetings and hearings.

And as part of the Courts in the Community program,⁵⁹ Colorado's appellate courts hear oral arguments in all parts of the state. Local bar associations often host small social functions in conjunction with these events. The courts and bar associations could use these and other opportunities to bring together state and local members of all the branches.

Such education is likely to promote new ideas for formal avenues of communication to augment the State of the Judiciary addresses and communications through the Office of the State Court Administrator.

57. See, e.g., MARON, CONFERENCE REPORT, *supra* note 15, at 8-9; RIDGE, GUIDEBOOK, *supra* note 16, at app. B, app. C.

58. See, e.g., MARON, CONFERENCE REPORT, *supra* note 15, at 26; RIDGE, GUIDEBOOK, *supra* note 16, at app. B, app. C.

59. Colorado Judicial Branch, Courts in the Community, <http://www.courts.state.co.us/exec/pubed/courtsinthecommunity.htm> (last visited Nov. 2, 2007).

B. Formal Avenues

New formal avenues should seek to promote efficiency and effectiveness in governmental processes. For example, can legislators draft statutes that are less vulnerable to the risks of modification through litigation and are more likely to be read and understood consistently with legislative intentions and purposes? Are judicial impact statements being used effectively? Are joint committees and task forces being utilized effectively? Might joint conferences be held regarding interbranch relations and emerging public issues? Could legislators be invited to attend or make presentations at annual judicial education conferences? Are there effective means for the courts to draw the legislature's attention to statutory provisions that could be made more clear and, thus, reduce or avoid litigation and the need for judicial interpretation? Are existing avenues of communication primarily at the highest levels of each institution? Are there ways to bring more judges and legislators together throughout each branch? How can the leadership of the legislature and judiciary increase attendance at bar association programs that inform legislators about the courts and the way courts interpret statutes? How can such programs facilitate continuing communications between legislators and judges?

C. Informal and Social Contacts

Increased education and formal communications may well result in increased personal contacts and informal communications between officials of different branches. Such communications would increase the potential for new ideas, and perhaps more important, for mutual understanding and respect. In addition, although officials from each of the branches often attend the same community events, how much more might the public benefit if all three branches gathered at the beginning of each legislative session for a luncheon that celebrated the founders' design of three branches forming one government?

CONCLUSION

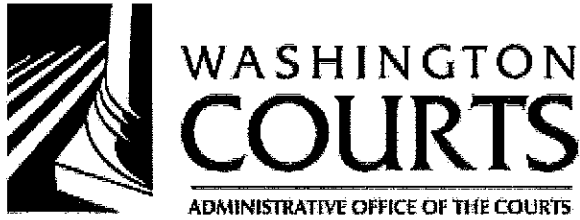
"The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self[-]appointed, or elective, may justly be pronounced the very definition of tyranny."⁶⁰ The task of public officials is to preserve the separation of powers and also to govern effectively and efficiently. We cannot do this without knowing the powers, dynamics, and constraints of the other branches with which we share that responsibility. We could do it better if the avenues of communication, formal and informal, are available, known, and used by each branch and by individual legislators and judges. Avenues that currently address changes in substantive and pro-

60. THE FEDERALIST NO. 47 (James Madison).

cedural laws could be supplemented with avenues that increase mutual understanding and respect for the unique dynamics of the legislative and judicial processes, and the commitment of those in each branch to serve the public in accordance with their sworn duties.

The national, regional, and state conferences in 1989 and the early 1990s designed ways to increase interbranch communications. As we approach the twentieth anniversary of the 1989 conference, perhaps it is time for a series of smaller regional and state interbranch conferences, not to design avenues of communication, but to begin the work of broadening existing avenues of communication, augmenting them with others that have been designed but not yet built, and promoting increased use by individual legislators and judges. It is absurd to think that we could govern effectively and efficiently without them. Yet, too often, it seems we "move on in proud and silent isolation."

TAB 7



COURT TOURS FOR LEGISLATORS

Planning Materials

INTRODUCTION

The Washington State Legislature is a true, part-time citizen legislature with state Senators and Representatives coming from all walks of life and professions. As such, most legislators may not be familiar with courts in general or Washington State Courts in particular. In fact, of the 147 State Senators and Representatives serving in the 2008 legislature, only eleven hold a law degree and may be reasonably expected to have a working knowledge of the law and our courts. Two of those eleven have recently announced their “retirement” from the legislature. An effective way to fill that knowledge gap is to invite legislators to pay a visit to the courts in their district, introducing them to the work-a-day realities of Washington courts and the real-life impacts on Washington State Citizens.

These visits also help to build the personal relationships between legislators and judges and court staff that are vital to promote and institute judicial branch policy goals relating to the administration of justice.

PURPOSE

The purpose of this document is to encourage judges to invite their legislators to a court in his or her district for a half-day visit and tour. Each individually tailored visit is designed to give legislators a personal understanding of the volume, complexity, and variety of the daily duties and responsibilities of a judge, as well as the extensive responsibilities of court clerks and administrators. This experience is intended to impress upon legislators the significant role played by the courts and the justice system, their impact on the daily lives of our citizens, and the need for legislators' support. It is anticipated that this deeper understanding of the difficult job of our courts will come to mind as legislative decisions are made. In other states, such as California, from which this idea and some of the materials are respectfully borrowed, such visits have been overwhelmingly successful and well-received by judges and legislators.

OVERVIEW

Legislators generally spend a morning with a host judge from their district. The morning usually begins with a briefing in the judge's chambers, during which the judge explains the judicial system, the calendar(s) to be observed that day, the type of decisions made for each case category, and the role of the various participants in the courtroom. The judge may wish to explain that the legislator's presence will not be announced in the courtroom.

When scheduling, the host court should choose a day that will demonstrate the high volume of cases brought before the court, or in lower volume courts, the variety of work and breadth of the law handled by the judge. In addition, the visit usually includes a tour of the court facility and a visit to the clerk's office.

The court session and the tour are usually followed by a debriefing session, where questions about the morning can be answered and district and statewide issues can be discussed. This session may be held over lunch with other invited guests from the court (e.g. presiding judge, court executive).

While most of your time should be spent discussing your court and its procedures, you may be asked specific questions related to policy. Please keep in mind that when you answer, you are speaking as a representative of the state's judiciary. As part of the preparation for the visit, AOC staff will be happy to provide you with information on judicial branch legislative proposals and priorities.

It is vitally important that these visits be friendly and informational. One of the key benefits of this program is the strong relationships that are established between judges and legislators, resulting in legislators' increased familiarity with local courts and judges and with the way the judicial branch operates in general. As a result, the legislator will be better able to respond when issues and concerns come up in the future. The visit is not the time to make requests of the legislator on behalf of the court or the judiciary. Rather, it is a time to build relationships and share information about the important work of the courts.

GOALS

While the purpose of these visits is to develop relationships and enhance the legislature's understanding of the judicial branch, it is worth noting that the Supreme Court adopted the following Principal Policy Goals of the Washington State Judicial Branch on June 5, 2008:

- **Fair and Effective Administration of Justice in All Civil and Criminal Cases.** Washington courts will openly, fairly, efficiently and effectively administer justice in all criminal and civil cases, consistent with constitutional mandates and the judiciary's duty to maintain the highest level of public trust and confidence in the courts.

- **Accessibility.** Washington courts, court facilities and court systems will be open and accessible to all participants regardless of cultural, linguistic, ability-based or other characteristics that serve as access barriers.
- **Access to Necessary Representation.** Constitutional and statutory guarantees of the right to counsel shall be effectively implemented. Litigants with important interests at stake in civil judicial proceedings should have meaningful access to counsel.
- **Commitment to Effective Court Management.** Washington courts will employ and maintain systems and practices that enhance effective court management.
- **Appropriate Staffing and Support.** Washington courts will be appropriately staffed and effectively managed, and court personnel, court managers and court systems will be effectively supported.

Each proposal made to the legislature will contemplate these goals. More specific detail on this year's agenda is available from AOC staff.

SUGGESTED AGENDA

7:30 A.M. COFFEE WITH LEGISLATOR IN JUDGE'S CHAMBERS

The judge will use this time to explain the following to the legislator:

- Overview of the court calendar
- Types of cases to be heard during the court session
- Typical issues involved for each case type
- The role of the various participants in the courtroom.

8:30 A.M. COURT CALENDAR SESSION

10:30 A.M. TOUR OF THE COURT FACILITY

- Key areas of the court facility to consider include the Clerk's office jury room.
- If possible, please introduce your legislature to the Court Administrator, Clerk and any other important staff.

12:00 P.M. LUNCH DEBRIEFING SESSION

During lunch, the legislator, the judge, and other guests will have the opportunity to discuss local and state issues of interest to the judiciary and the legislature. The judge should explain his or her duties when they are not on the bench and what he or she will be doing that afternoon.

1:00 P.M. SESSION IS CONCLUDED

If the legislator visits a trial court during the morning session, he or she may wish to continue the visit in the afternoon with a tour of the court facility, a meeting with the court administrator, etc. Alternatively, the legislator may wish to arrange an afternoon visit at another court nearby.

PLANNING FOR FOLLOW-UP

An on-going and collaborative relationship between the judicial and legislative branches is essential. This visit is intended to establish or enhance effective communication between the courts and legislators, and it is imperative to foster this relationship on a continuing basis. To this end, we encourage host judges to propose, and if possible schedule, a follow-up event or meeting with legislators after their court visit. There are numerous existing groups and events in your community that may be of interest to legislators. Alternatively, legislators often hold local “town hall” meetings that judges may wish to consider attending. Interactions of this type are often ideal opportunities for legislators to learn about issues of concern to the court and the justice community at the local level.

ADDITIONAL VISITS WITH LEGISLATORS

Many other opportunities exist to meet formally or informally with legislators. Legislators hold 15-minute meetings in their Olympia offices during the legislative session (generally mid-January through May, at the latest). Many also have local, district offices where they are able to meet for longer periods of time during the interim. If you need assistance in scheduling meetings with your legislators, AOC staff can offer guidance.

REGIONAL MEETINGS

Judges, court administrators, and bar leaders are encouraged to develop new opportunities to meet with legislators. As mentioned above, consider the groups or events that already exist in your court or surrounding communities that would be informative and educational for legislators.

Other possibilities for local meetings include:

- Coordinating with the courts in your legislators’ district for a “Meet Your Judges” night to get acquainted and provide information to the legislators about the courts.
- Holding an evening open house at a court, or in a community center, with an invitation to community leaders to meet with their judges and legislators.

Bear in mind that these local meetings are intended to be informative and educational. They should not be focused on political issues. Try to ensure that participants from the bench are aware that the purpose is to provide information about the courts, not to lobby their legislators.

WHERE TO FIND LEGISLATIVE INFORMATION

➤ General Bill Information Resources

To find the most up-to-date bill information, go to <http://apps.leg.wa.gov/billinfo/>. Here you can search for bill text by bill number, author or subject area. You can find bill histories (the dates of action, committee votes, and amendment dates), previous versions of the bill, analysis from the legislative policy committees (ex: Senate Judiciary Committee analysis), and vote information. You can also create your own online lists to track bills of interest to you.

Other Washington legislative information is also available at www.leg.wa.gov/legislature including Washington State House and Senate home pages, as well as the individual legislator home pages and legislative calendar information.

➤ AOC Resources

You may also obtain more information by contacting Mellani McAleenan, AOC's Executive Director of Policy and Planning, at Mellani.McAleenan@courts.wa.gov or (360) 357-2113.

For information specific to the Superior Court Judges' Association, please contact Regina McDougall, AOC's staff to the SCJA, at Regina.Mcdougall@courts.wa.gov or (360) 705-5337.

For information specific to the District and Municipal Court Judges' Association, please contact Ashley DeMoss, AOC's staff to the DMCJA, at Ashley.Demoss@courts.wa.gov or (360) 705-5226.

ABOUT THE ADMINISTRATIVE OFFICE OF THE COURTS

The Administrative Office of the Courts (AOC) was established by the 1957 Legislature and operates under the direction and supervision of the Chief Justice of the Supreme Court, pursuant to Chapter 2.56 RCW. The AOC is organized into four areas:

- **Administration** - Provides overall management of the AOC based on direction and guidance from the Supreme Court. Included in those responsibilities are planning, direction, and coordination of agency operations which includes administrative support for human resource needs of the Supreme Court, Court of Appeals, trial courts and AOC staff.
- **Information Services Division** - The Information Services Division provides support to the courts through the development, operation, and maintenance of the Judicial Information System (JIS) that supports automation in juvenile, municipal, district, superior, and appellate courts. Over 10,000 users access data on the JIS, including judges, court staff, attorneys, law enforcement, and private sector businesses.

- **Judicial Services Division** - The Judicial Services Division provides comprehensive professional and technical support to the state's 255 courts in the following areas: Front Office Services, Court Services, Education, Legal Services, Planning/Development, Public Information, and Research Services.
- **Management Services Division** - The Management Services Division provides integrated budget planning, asset management, accounting, procurement, revenue monitoring and analysis and contract management for the Supreme Court, Court of Appeals, State Law Library, Office of Civil Legal Aid, Office of Public Defense and the Administrative Office of the Courts. Division staff also provide administrative and technical financial assistance to the states' trial courts.

The AOC also provides coordination, support, and oversight of the funding for a variety of special programs.

~ The AOC would like to extend a note of thanks to the California Administrative Office of the Courts and the Washington State Legislature for their assistance in the drafting of this document.